



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

and

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

H.C.P. (MD) No.42 of 2022

V.Nagaraj

... Petitioner

Vs.

1.State of Tamil Nadu,
Rep. by the Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 600 009.

2.The District Collector and District Magistrate,
Ramanathapuram District,
Ramanathapuram.

3.The Superintendent of Prison,
Central Prison,
Madurai.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, to call for the entire records connected with the Detention Order passed in S.R.No.45/S.O/2021 dated 19.07.2021 on the file of the second respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu namely, the petitioner's son i.e., Jeyavaratharajan, S/o.Nagaraj, aged about 28 years, now detained at the Central Prison, Madurai, before this Court and set him at liberty forthwith.

For Petitioner : Mr.D.Balamurugapandi

For Respondents : Mr.T.Senthil Kumar,
Additional Public Prosecutor.



O R D E R

**R.SUBRAMANIAN, J.
AND
N.SATHISH KUMAR, J.**

The petitioner is the father of the detenu, namely, Jeyavaratharajan, S/o.Nagaraj, aged about 28 years. The detenu has been detained by the second respondent by his proceedings in S.R.No.45/ S.O/2021 dated 19.07.2021, holding him to be a "Sexual Offender", as contemplated under Section 2(ggg) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition, on the ground that there is a total non-application of mind on the part of the detaining authority.

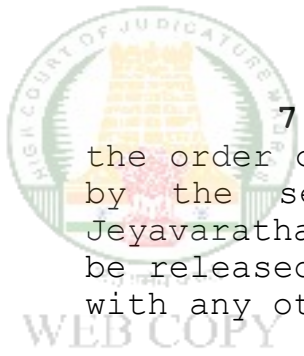
2. We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondents. We have also perused the records produced by the Detaining Authority.

3. The learned counsel for the petitioner would submit that the detention order has been passed without considering the materials in a proper perspective, which resulted in non-application of mind on the part of the detaining authority.

4. The detaining authority has observed that one Pandidurai, who was arrested in connection with Crime No.209 of 2021 had filed a bail application before the Fast Track Mahila Court, Ramanathapuram and he was granted bail on 17.05.2021 in Cr.M.P.No.630 of 2021 and therefore, there is likelihood of the detenu in this case coming out on bail. Such an observation is nothing but non-application of mind on the part of the detaining authority.

5. Admittedly, the detenu has moved bail application and the same was dismissed. Therefore, merely because some other accused in some other crime number has been released on bail, the same cannot be a ground to hold that the detenu also likely to be released on bail. It is also to be noted that a similar case theory cannot be applied mechanically. Bail is normally granted taking into consideration of facts and circumstances of each and every case.

6. In such view of the matter, we are of the view that the detaining authority had mechanically passed the order anticipating the release on bail, which shows clear non-application of mind on the part of the detaining authority and further it is also brought to the notice of this Court that the detaining authority has not furnished the translated copies in tamil of the order in the similar case. The impugned detention order is, therefore, liable to be quashed.



7. In the result, the Habeas Corpus Petition is allowed and the order of detention in S.R.No.45/S.O/2021 dated 19.07.2021 passed by the second respondent is set aside. The detenu, namely, Jeyavaratharajan, S/o.Nagaraj, aged about 28 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Ramanathapuram District,
Ramanathapuram.
- 3.The Superintendent of Prison,
Central Prison,
Madurai.
- 4.The Joint Secretary to Government,
Public (Law & Order), Fort saint George,
Chennai-600 009.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

H.C.P. (MD) No.42 of 2022

14.03.2022

RD(25.03.2022) 3P 6C