

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **30.11.2022**

CORAM

THE HON'BLE MR JUSTICE M.S.RAMESH
AND
THE HON'BLE MR JUSTICE N. ANAND VENKATESH

H.C.P.(MD)No.857 of 2022

Kaleeswari

... Petitioner / Wife of the Detenue

Vs.

1.The State of Tamil Nadu,
Rep by its Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai-600 009.

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

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

4.The Inspector of Police,
Thiruchuli Police Station,
Virudhunagar District.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, calling for the records relating to the detention order passed by the 2nd respondent in Cr.M.P.No.18 of 2022 dated

12.05.2022 and quash the same and direct the respondents to produce the detenue, Selvakumar, son of Sankarapandian, male aged 37 years, who is detained at Central Prison, Madurai, before this Court and set him at liberty.

For Petitioner : Mr.R.Mariappan

For Respondents : Mr.A.Thiruvadikumar

Additional Public Prosecutor

ORDER

M.S.RAMESH,J.

and

N. ANAND VENKATESH,J.

The petitioner is the wife of the detenu viz., Selvakumar, S/o. Sankarapandian, aged 37 years. The detenu has been detained by the second respondent by his order in Cr.M.P.No.18 of 2022 dated 12.05.2022 holding him to be a "Goonda", as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.

2. We have heard the learned counsel appearing 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. Though several grounds have been raised in the Habeas Corpus Petition, the learned counsel appearing for the petitioner would mainly focus his argument on the ground that there is gross violation of procedural safeguards, which would vitiate the detention. The learned counsel, by placing authorities, submitted that the representation made by the petitioner was not considered on time and there was an inordinate and unexplained delay.

4. Apart from the other grounds, the main ground that was urged by the learned counsel for the petitioner is that the detaining authority, after being aware of the fact that no bail application was filed by the detenu, came to a conclusion that there is a likelihood of the detenu being let out on bail, by taking into consideration the order passed in CrI.M.P.No.16167 of 2021. The learned counsel for the petitioner submitted that the order that was relied upon by the detaining authority is not a similar case.

5. The learned Additional Public Prosecutor, on instructions, submitted that the investigation has been completed and final report has

been filed on 31.05.2022 on time and the case is pending in S.C.No.134 of 2022 on the file of the learned Additional District Judge, Virudhunagar and the case stands posted on 13.12.2022 for examination of LWs.1 to 3.

6. We have carefully went through the order passed in CrI.M.P.No. 16167 of 2021. It is seen that in that case, there is no allegation that the accused therein had previous cases. That apart, there was no eye-witness to that case and the accused were roped in that case, based on the statement given by the Village Administrative Officer. In the present case, there are two adverse cases and one ground case and the name of the detenue does not find place in the FIR registered in the ground case. Hence, the order that was relied upon by the detaining authority cannot be considered to be a similar case and therefore, the detention order clearly suffers from non application of mind. 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 Cr.M.P.No.18 of 2022 dated 12.05.2022 passed by the second respondent is set aside. The detenu, viz., Selvakumar, S/o.

Sankarapandian, aged 37 years, is directed to be released forthwith unless his detention is required in connection with any other case.

(M.S.R.,J.) (N.A.V.,J.)
30.11.2022

Index : Yes/No
Internet : Yes
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To:

- 1.The State of Tamil Nadu,
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Home, Prohibition and Excise Department,
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Thiruchuli Police Station,
Virudhunagar District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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