



H.C.P.(MD)No.896 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

and

THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH

H.C.P.(MD)No.896 of 2022

Muthulakshmi

.. Petitioner

Vs.

1.The Principal Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 600 009.

2.The Commissioner of Police,
Office of the Commissioner of Police,
Tiruchirappalli City,
Tiruchirappalli.

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

.. Respondents



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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 of the second respondent in C.No.57/Detention/C.P.O/T.C/2022, dated 26.04.2022 and quash the same and direct the respondents to produce the body or person of the detenu by name Sarathkumar, son of Krishnasamy, aged about 24 years, now confining as "Sexual Offender" at Tiruchirappalli Central Prison, before this Court and set him at liberty forthwith.

For Petitioner : Mr.K.M.Karunakaran

For Respondents : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

ORDER

[Order of the Court was made by **N.ANAND VENKATESH, J.**]

The petitioner is the mother of the detenu viz., Sarathkumar, son of Krishnasamy, aged about 24 years. The detenu has been detained by the second respondent by his order in C.No.57/Detention/C.P.O/T.C/2022, dated 26.04.2022, holding him to be a "Sexual Offender", as contemplated



H.C.P.(MD)No.896 of 2022

under Section 2(ggg) 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 main ground that was urged by the learned counsel for the petitioner is that the detaining authority inspite of being aware of the fact that the bail petition filed by the detenu was pending, taking note of the order passed by the High Court in CrI.O.P.(MD) No.12498 of 2017, came to a conclusion that there is a likelihood of the detenu coming out on bail. The learned counsel submitted that the order that was relied upon by the detaining authority is not a similar case and hence, the learned counsel submitted that it is clearly a non-application of mind on the part of the detaining authority to come to a subjective satisfaction.



H.C.P.(MD)No.896 of 2022

WEB COPY

4. The learned Additional Public Prosecutor strongly opposed the Habeas Corpus Petition by filing his counter. He would submit that though there was delay in considering the representation, on that score alone, the impugned detention order cannot be quashed. According to the learned Additional Public Prosecutor, no prejudice has been caused to the detenu and thus, there is no violation of the fundamental rights guaranteed under Articles 21 and 22 of the Constitution of India.

5. The learned Additional Public Prosecutor on instructions, submitted that the detenu was arrested in this case on 01.04.2022 and the investigation was completed and final report was filed on 21.05.2022 within the statutory period. It was further submitted that the case is now pending before the Mahila Court, Tiuchirappalli, in Spl.S.C.No.118 of 2022 and it is now at the stage of framing of charges.

6. We have carefully considered the submissions made on either side and also materials available on record.



H.C.P.(MD)No.896 of 2022

WEB COPY

7. We have carefully gone through the order passed in CrI.O.P. (MD) No.12498 of 2017 and it is seen that and in that case, this Court took into consideration the long incarceration that was already undergone and also the fact that the charge sheet was already filed in that case and hence, there was no requirement for any further custody. The facts of the case relied upon by the detaining authority is not a similar case as that of the case in hand. In view of the same, there is non-application of mind on the part of the detaining authority to come to the subjective satisfaction.

8. In the result, the Habeas Corpus Petition is allowed and the order of detention in C.No.57/Detention/C.P.O/T.C/2022, dated 26.04.2022 passed by the second respondent is set aside. The detenu, viz., Sarathkumar, son of Krishnasamy, aged about 24 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.)
18.11.2022

Index : Yes/No
Internet : Yes
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Page 5 of 7



H.C.P.(MD)No.896 of 2022

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- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
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