



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.12.2022

CORAM

THE HON'BLE MR JUSTICE M.S.RAMESH

AND

THE HON'BLE MR JUSTICE N. ANAND VENKATESH

H.C.P.(MD)No.962 of 2022

V.Pandurangan

... Petitioner /Father of the detenu

Vs.

1.The State of Tamil Nadu,
Rep by Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai-9.

2.The District Collector cum District Magistrate,
Trichy District, Trichy.

3.The Superintendent,
Central Prison, Trichy.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, calling for the entire records in detention order, passed in Detention Order Cr.M.P.No.35/2022 dated 19.05.2022 on the file of the second respondent herein and set aside the same as illegal and direct the respondents to produce the petitioner's son namely, Thiru.Bas alias Baskaran alias Vijayabaskaran, Son of Pandurangan, Male, aged about 46 of 2022, who is detained in Central Prison, Trichy, before this Court and set him at liberty.

For Petitioner :Mr.S.R.Shankar Ganesh

For Respondents :Mr.A.Thiruvadikumar,
Additional Public Prosecutor

ORDER

(Order of the Court was made by **N. ANAND VENKATESH, J.**)

The petitioner is the father of the detenu viz. Bas alias Baskaran alias Vijayabaskaran, aged about 46 years, S/o.Pandurangan. The detenu has been detained by the second respondent by his order in Detention Order Cr.M.P.No.35/2022 dated 19.05.2022 holding him to be a "Boot-Legger", as contemplated under Section 2(b) 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.

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 bail application filed by the detenu was pending, 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.O.P.(MD)No.8673 of 2022. 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 strongly opposed the Habeas Corpus Petition by filing counter.

6. We have carefully went through the order passed in CrI.O.P.(MD)No.8673 of 2022.

7. That was a case where the accused therein was granted bail by this Court on the ground that he was roped as an accused based on the confession of the co-accused. That apart, the recovery was only done from the co-accused and not from the accused therein. In the present case, the contraband was seized from the detenu and he was directly involved in this case. Hence, the order that was relied upon by the detaining authority cannot be considered to be a similar case and the detention order clearly suffers from non application of mind. The impugned detention order is, therefore, liable to be quashed.

8. In the result, the Habeas Corpus Petition is allowed and the order of detention in Cr.M.P.No.35/2022 dated 19.05.2022 passed by the second respondent is set aside. The detenu, viz., Bas alias Baskaran alias Vijayabaskaran, aged about 46 years, S/o.Pandurangan, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/12/2022

Sub Assistant Registrar(CS)



To:

- 1.The State of Tamil Nadu,
Rep by Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai-9.
- 2.The District Collector cum District Magistrate,
Trichy District, Trichy.
- 3.The Superintendent,
Central Prison, Trichy.
- 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.

+1 CC to M/s.R.SHANKAR GANESH, Advocate (SR-59734[F] dated
02/12/2022)

H.C.P. (MD) No.962 of 2022
02.12.2022

RD(20/12/2022) 3P 7C