



HCP(MD)No.994 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 30.11.2022

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

H.C.P.(MD)No.994 of 2022

Petchiyammal

... Petitioner / Mother of the Detenue

Vs.

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
State of Tamilnadu,
Fort St.George, Chennai-600 009.

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

3.The Superintendant of Prison,
Palayamkottai Central Prison,
Tirunelveli District.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, calling for the entire records connected with the detention order of the 2nd respondent in No.49/BCDFGISSSV/2022, dated 12.05.2022 and quash the same and direct the respondents to produce the detenue, by name, Mariappan alias Kurangu Mariappan, S/o.Velsamy



HCP(MD)No.994 of 2022

Thevar, aged about 37 years, now detained in Palayamkottai Central Prison, before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Vinoth Bharathi

For Respondents : Mr.A.Thiruvadikumar

Additional Public Prosecutor

ORDER

M.S.RAMESH,J.

and

N. ANAND VENKATESH,J.

The petitioner is the mother of the detenu viz., Mariappan alias Kurangu Mariappan, S/o.Velsamy Thevar, aged about 37 years. The detenu has been detained by the second respondent by his order in No.49/BCDFGISSSV/2022, dated 12.05.2022 holding him to be a "Drug Offender", as contemplated under Section 2(e) 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.



HCP(MD)No.994 of 2022

WEB COPY

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 Spl.Crl.M.P.No.563 of 2020. The learned counsel for the petitioner submitted that the order that was relied upon by the detaining authority is not a similar case.



HCP(MD)No.994 of 2022

5. The learned Additional Public Prosecutor, on instructions, submitted that the investigation has been completed and final report has been filed before the Special Court for NDPS Act cases, Madurai, and the same has not been taken on file.

6. We have carefully went through the order passed in Spl.Crl.M.P.No.563 of 2020. The Court had granted bail in that case by taking into consideration the long incarceration of the accused therein and also the possibility of completion of the major portion of the investigation. 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. Since it is submitted that final report has been filed, the concerned Magistrate is directed to immediately act upon and proceed in accordance with law.

7. In the result, the Habeas Corpus Petition is allowed and the order of detention in No.49/BCDFGISSSV/2022, dated 12.05.2022 passed by the second respondent is set aside. The detenu, viz., Mariappan alias Kurangu



HCP(MD)No.994 of 2022

Mariappan, S/o.Velsamy Thevar, aged about 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 Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
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Fort St.George, Chennai-600 009.
- 2.The Commissioner of Police,
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Tirunelveli City.
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- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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HCP(MD)No.994 of 2022

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