



HCP(MD)No.1024 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 28.11.2022

CORAM

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

H.C.P.(MD)No.1024 of 2022

Prema

.. Petitioner / wife of
the detenu

Vs.

- 1.The State of Tamil Nadu
Rep. by its Principal Secretary to Government
Home Prohibition and Excise Department,
Secretariat Chennai-600 009.
- 2.The Commissioner of Police (AMIS)
Tiruchirappalli City
Tiruchirappalli.
- 3.The Superintendent of Prison,
Central Prison
Tiruchirappalli.
- 4.The Inspector of Police,
K.K.Nagar Police Station
Trichy City.

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the entire records relating to the detention of petitioner's husband namely Sakthivel, son of Kaliyamoorthy, aged about



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50 years under Section 2(e) of the Tamil Nadu Act 14 of 1982 vide Detention order dated 02.05.2022 made in C.No. 63/Detention/CPO/TC/2022 passed by the 2nd respondent herein and quash the same as illegal and consequently direct the respondents herein to produce the person or body of the detenu Sakthivel, son of Kaliyamoorthy now confined at Central Prison, Tiruchirappalli, before this Court and set him at liberty.

For Petitioner : Mr.R.Gandhi

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

The petitioner is the wife of the detenu viz., Sakthivel aged about 50 years, S/o.Kaliyamoorthy. The detenu has been detained by the second respondent by his order in C.No.63/Detention/CPO/TC/2022 dtd 02.05.2022 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



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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 the detaining authority was aware of the fact that the bail petition filed by the detenu was dismissed. However, the detaining authority came to a conclusion that there is likelihood of the detenu being let out on bail by relying upon the order passed in CrI.M.P.No. 1661 of 2018 and hence, the learned counsel submitted that the order that has been relied upon by the detaining authority is not similar one, which shows non application of mind on the part of the detaining authority and on that score, the detention order is liable to be interfered with.

4. The learned Additional Public Prosecutor strongly opposed the Habeas Corpus Petition by filing his counter. He would further submit that the investigation has been completed and charge sheet has been filed on 22.07.2022 before the EC Court, Pudukottai and the same is yet to be numbered.



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5. On carefully going through the detention order, it is seen that there is one adverse case and a ground case against the detenu. Insofar as the ground case is concerned, it involves 2 Kgs of Ganja. The bail petition that was filed by the detenu was dismissed in CrI.M.P.No.768/2022 on 22.04.2022, since it was seriously opposed by the Public Prosecutor, whereas in the bail order that was relied upon by the detaining authority in CrI.M.P.No.1661/2018, it is seen that bail was granted since no objection was raised on the side of the prosecution. That apart, the Court also took into consideration the incarceration suffered by the accused therein and hence, the order that has been relied upon by the detaining authority cannot be considered to be a similar case.

6. In view of the above, the detention order suffers from non application of mind and the same is liable to be interfered with by this Court. The impugned detention order is, therefore, liable to be quashed. Since it is submitted that the final report has been filed, there shall be a direction to the concerned Judicial Magistrate, to immediately act upon the final report and proceed in accordance with law.



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7. In the result, the Habeas Corpus Petition is allowed and the order of detention in C.No.63/Detention/CPO/TC/2022 dated 02.05.2022 passed by the second respondent is set aside. The detenu, viz., Sakthivel, S/o.Kaliyamoorthy, aged about 50 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.)
28.11.2022

Internet : Yes
RR



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To

1. The Principal Secretary to Government
Home Prohibition and Excise Department,
Secretariat Chennai-600 009.
2. The Commissioner of Police (AMIS)
Tiruchirappalli City
Tiruchirappalli.
3. The Superintendent of Prison,
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Tiruchirappalli.
4. The Inspector of Police,
K.K.Nagar Police Station
Trichy City.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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M.S.RAMESH, J.
and
N. ANAND VENKATESH, J.

RR

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