



WEB COPY



HCP(MD)No.1043 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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.1043 of 2022

Chinnammal

.. Petitioner / mother of
the detenu

Vs.

1.The District Magistrate and
District Collector
Dindigul District
Dindigul.

2.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat Chennai-600 009.

3.The Superintendent of Prison,
Central Prison
Madurai

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the entire records from the first respondent in Detention order No.37 of 2022 dated 28.04.2022 by setting aside the said order of detention passed by the 1st respondent and setting the detenu A.Bhoomibalan, S/o.Alagarsamy, aged about 37 years, at liberty now



HCP(MD)No.1043 of 2022

detained in the Central Prison, Madurai.

WEB COPY

For Petitioner : Mr.M.Senthilkumar

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

The petitioner is the mother of the detenu viz., Bhoomibalan aged about 37 years, S/o.Alagarsamy. The detenu has been detained by the first respondent by his order in Detention order No.37 of 2022 dated 28.04.2022 holding him to be a "Cyber Law Offender", as contemplated under Section 2(bb) 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



HCP(MD)No.1043 of 2022

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 took into consideration the order passed in CrI.M.P.No.4676 of 2018 and had come to the conclusion that there is likelihood of the detenu being granted bail 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.

5. On carefully going through the detention order, it is seen that in the bail petition that has been relied upon by the detaining authority, where bail has been granted, the prosecution did not file any reply to the bail petition and that apart, the concerned Court did not deal with the merits of the case and hence, the order that has been relied upon by the detaining authority



HCP(MD)No.1043 of 2022

cannot be said to be similar case.

WEB COPY

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.

7. In the result, the Habeas Corpus Petition is allowed and the order of detention in Detention order No.37 of 2022 dated 28.04.2022 passed by the first respondent is set aside. The detenu, viz., Bhoomibalan, S/o.Alagarsamy, 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.)
28.11.2022

Internet : Yes
RR



HCP(MD)No.1043 of 2022

To

WEB COPY

- 1.The District Magistrate and
District Collector
Dindigul District
Dindigul.
- 2.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat Chennai-600 009.
- 3.The Superintendent of Prison,
Central Prison
Madurai
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



WEB COPY



HCP(MD)No.1043 of 2022

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

RR

H.C.P.(MD)No.1043 of 2022

28.11.2022