



H.C.P.(MD)No.1312 of 2022

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

and

THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH

H.C.P.(MD)No.1312 of 2022

Kullamani @ Manikandan

.. Petitioner

Vs.

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

2.The District Magistrate and District Collector,
Office of the District Magistrate and District Collector,
Karur District.

3.The Superintendent of Prison,
Trichy Central Prison,
Trichy District.

.. Respondents



H.C.P.(MD)No.1312 of 2022

WEB COPY

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 respondent No.2 in Cr.M.P.No.10/2022, dated 02.05.2022 and quash the same and direct the respondents to produce the body or person of the detenu by name Kullamani @ Manikandan, son of Selvaraj, aged about 29 years, now detained as "Drug Offender" at Trichy Central Prison, before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani

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 detenu viz., Kullamani @ Manikandan, son of Selvaraj, aged about 29 years. The detenu has been detained by the second respondent by his order in Cr.M.P.No.10/2022, dated 02.05.2022,



H.C.P.(MD)No.1312 of 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.

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 was aware of the fact that no bail petition was pending in the ground case and inspite of the same, the order passed in the previous case in CrI.M.P.No.5 of 2022 was taken into consideration to come to the satisfaction that there is a likelihood of the detenu coming out on bail. The learned counsel submitted that the order relied upon by the detaining authority was not a similar case and the reason assigned therein will not apply to the facts of the present case and therefore,



H.C.P.(MD)No.1312 of 2022

the detention order suffers from non-application of mind on the part of the detaining authority.

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

6. The detaining authority has taken into consideration that the order passed in CrI.M.P.No.5 of 2022 and come to a conclusion that there is a likelihood of the detenu coming out on bail. We have carefully gone through the said order, it is seen that in that case, the bail petition was



H.C.P.(MD)No.1312 of 2022

opposed by the Special Public Prosecutor on the ground that the steps are being taken to detain the accused under the Goondas Act. However, no steps are taken nearly for 45 days and hence, the concerned Court was pleased to grant bail to the detenu.

7. In the ground case, a very similar stand was taken by the Special Public Prosecutor in CrI.M.P.No.711 of 2022 and the Special Court was pleased to dismiss the bail application by an order, dated 19.04.2022. It is, therefore, clear that the earlier order passed in CrI.M.P.No.5 of 2022 cannot be considered to be a similar case to the facts of the present case and the consideration was entirely different and infact, the Special Court had dismissed the bail petition filed by the detenu and it, therefore, clearly reflects the non-application of mind on the part of the detaining authority to come to the subjective satisfaction.

8. In view of the above, the detention order suffers from non-application of mind on the part of the detaining authority and the same is liable to be interfered with by this Court. The impugned detention order is,



H.C.P.(MD)No.1312 of 2022

therefore, liable to be quashed.

WEB COPY

9. In the result, the Habeas Corpus Petition is allowed and the order of detention in Cr.M.P.No.10/2022, dated 02.05.2022 passed by the second respondent is set aside. The detenu, viz., Kullamani @ Manikandan, son of Selvaraj, aged about 29 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

Index : Yes/No
Internet : Yes
rm



H.C.P.(MD)No.1312 of 2022

Copy to

WEB COPY

1. The Additional Chief Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 600 009.
2. The District Magistrate and District Collector,
Office of the District Magistrate and District Collector,
Karur District.
3. The Superintendent of Prison,
Trichy Central Prison,
Trichy District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



H.C.P.(MD)No.1312 of 2022

M.S.RAMESH,J.

and

N.ANAND VENKATESH, J.

rm

H.C.P.(MD)No.1312 of 2022

28.11.2022