



H.C.P.(MD) No.1360 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.12.2022

CORAM:

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
AND
THE HON'BLE MR JUSTICE SUNDER MOHAN**

H.C.P.(MD) No.1360 of 2022

Anusuya

... Petitioner

-vs-

1.The State of Tamil Nadu
represented by the Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-600 009.

2.The District Collector and District Magistrate,
Theni District.

3.The Superintendent of Central Prison,
Central Prison,
Madurai.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of Habeas Corpus, calling for the records relating to the impugned detention order passed by the second respondent by his proceedings vide detention No. 50/2022, dated 07.06.2022 and quash the same and direct the respondents herein



H.C.P.(MD) No.1360 of 2022

WEB COPY

to produce the petitioner's husband namely Prabhu, male, Hindu aged about 30 years, son of Murugan detained as Goonda now confined at Central Prison, Madurai before this Court and set him at liberty.

For Petitioner : Mr.R.Venkateswaran
For Respondents : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

ORDER

DR.G.JAYACHANDRAN,J.
AND
SUNDER MOHAN,J.

The wife of the detenu seeking to quash the order of detention, dated 07.06.2022 on the ground that the detention order suffers non-application of mind and improper appreciation of facts.

2. According to the petitioner, her husband was arrested on 04.05.2022 in connection with Cr.No.130 of 2022 for an offence under Section 302 of IPC. Subsequently, the offence was altered into Sections 449, 392, 397 and 302 of IPC. Even according to the FIR, this is a only case against the detenu and the said occurrence alleged to have taken place due to money dispute in connection with Chit transaction. It is a



H.C.P.(MD) No.1360 of 2022

WEB COURT

solitary case against the detenu due to personal enmity and it has no impact on the public peace. While so, contending that there is a likelihood of securing bail, the detention order has been passed even though the detenu has not sought for any bail.

3. Counter affidavit has been filed justifying the detention order, wherein, it is stated that even a single incident is sufficient to invoke Act 14 of 1982. If the contact of the accused has propensity of affecting the public tranquility, prejudicial to the maintenance of public order. Regarding the possibility of getting bail, it is contended that the detenu has committed offence in the manner prejudicial to the maintenance of Public Order and public health and therefore, being satisfied, his preventive detention is imminent. Detention order was passed inferring real possibility of securing the bail.

4. This Court on considering the facts of the case and the counter filed, justifying the detention order, is satisfied that there is no proper application of mind while exercising the power of preventive detention. Solitary case though sufficient to detain the accused under Act 14/1982, as far as facts of the case is concerned, it does not have any element of threat



H.C.P.(MD) No.1360 of 2022

to public peace and tranquility. It is an incident occurred inside the house and the cause for the occurrence also appears to be personal motive regarding the money transaction and nothing else. Hence, the detention order is set aside for improper application of mind.

5. In fine, the Habeas Corpus Petition is allowed. The detention order passed in No.50 of 2022, dated 07.06.2022, by the 2nd respondent, is set aside. Consequently, the detenu viz., Prabu, S/o.Murugan, aged about 30 years, who is now detained in Central Prison, Madurai, is directed to be released forthwith, unless his presence or custody or detention is required in connection with any other case.

Index : Yes / No
Internet : Yes / No
am

[G.J.,J.] [S.M.,J.]
15.12.2022



H.C.P.(MD) No.1360 of 2022

WEB COPY

To

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



WEB COPY



H.C.P.(MD) No.1360 of 2022

DR.G.JAYACHANDRAN,J.
AND
SUNDER MOHAN,J.

am

H.C.P.(MD) No.1360 of 2022

15.12.2022