



H.C.P.(MD)No.1744 of 2022

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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.1744 of 2022

Dhanasekaran

.. Petitioner

Vs.

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise (XIV) Department,
Fort St. George,
Chennai - 600 009.

2.The District Collector and District Magistrate,
District Collector and District Magistrate's Office
Thanjavur District.

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

.. Respondents



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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 P.D.No.42/2022, dated 04.05.2022 and quash the same and direct the respondents to produce the body or person of the detenu by name Dhanasekaran, son of Govindaraj, aged about 39 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., Dhanasekaran, son of Govindaraj, aged about 39 years. The detenu has been detained by the second respondent by his order in P.D.No.42/2022, dated 04.05.2022,



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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 after being aware of the fact that the bail petition filed by the detenu was dismissed, relied upon the order passed in CrI.M.P.No.98 of 2022 and come to a conclusion 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 cannot be considered to be a similar case and therefore, the detention order suffers from non-application of mind on the part of the detaining authority.



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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. On carefully going through the order passed in CrI.M.P. No.98 of 2022 that was a case where there was no previous case against the accused therein and the Court also took into consideration the long incarceration that was suffered by the accused. In the present case there are two adverse cases and one adverse case against the detenu and hence, the order relied upon by the detaining authority cannot be considered to be a



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similar case. It therefore, clearly reflects non-application of mind on the part of the detaining authority to come to the subjective satisfaction.

7. 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, therefore, liable to be quashed.

8. In the result, the Habeas Corpus Petition is allowed and the order of detention in P.D.No.42/2022, dated 04.05.2022, passed by the second respondent is set aside. The detenu, viz., Dhanasekaran, son of Govindaraj, aged about 39 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
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Madurai Bench of Madras High Court,
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