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HCP(MD)No.1751 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.11.2022

CORAM

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

H.C.P.(MD)No.1751 of 2022

Pappathy

... Petitioner / Wife of Detenu

/Vs./

1.The Additional Chief Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat, Chennai – 600 009.

2.The Commissioner of Police,
Tiruchirappalli City,
Tiruchirappalli District.

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

4.State through,
The Inspector of Police,
Srirangam Police Station,
Tiruchirappalli District.

...Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, calling for the entire records connected with the detention order in C.No.10/Detention/C.P.O./T.C./2022 dated 25.01.2022 on the file of the 2nd Respondent and quash the same and direct the respondents to produce the person or body of the detenu namely Muthu @ Veerapathiran, S/o.Chandran, aged about 53 years, now confined at Central Prison, Trichy, before this Court and set him liberty forthwith.

For Petitioner : Mr.P.Aju Tagore

For Respondents : Mr.A.Thiruvadikumar

Additional Public Prosecutor

ORDER

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

This petition came up for hearing yesterday (28.11.2022) and we passed an order based on the proforma that was circulated to us, which showed that there was delay in considering the representation made by the petitioner. However, later it was ascertained that the proforma that was circulated did not pertain to this case. Hence, we posted this case under the caption 'For being spoken to' today (29.11.2022) and heard the case once again on merits.



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2. The petitioner is the wife of the detenu viz., Muthu @ Veerapathiran, S/o.Chandran, aged about 53 years. The detenu has been detained by the second respondent by his order in C.No. 10/Detention/C.P.O./T.C./2022 dated 25.01.2022 holding him to be a "Goonda", as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.

3. 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.

4. Apart from the other grounds that 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 detenu has not filed any bail petition in either adverse cases or the ground case, came to a conclusion that there is a likelihood of detenu coming out of bail, by relying upon the order passed in Cr.M.P.No.2827 of 2015. The learned counsel appearing for the petitioner submitted that the order that was relied upon by the detaining authority is not similar case.



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5. The learned Additional Public Prosecutor strongly opposed the Habeas Corpus Petition by filing his counter.

6. In the present case, there are totally three adverse cases and one ground case against the detenu. In all the four cases, the detenu has not filed any bail petition. The detaining authority has relied upon the order passed in Cr.M.P.No.2827 of 2015. We have carefully went through this order. It is clear from the order that was relied upon by the detaining authority that bail was granted to the accused in that case, since no serious objections were raised by the Public Prosecutor and the Court took into consideration the long incarceration of the accused and also the fact that stolen goods were already recovered. There is absolutely no indication that there were previous cases against the accused therein. The order that was relied upon by the detaining authority cannot be considered to be a similar case. This by itself reflects non application of mind on the part of the detaining authority. Therefore, the order of detention is liable to be interfered with.



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7. In the result, the Habeas Corpus Petition is allowed and the order of detention in C.No.10/Detention/C.P.O./T.C./2022 dated 25.01.2022, passed by the second respondent is set aside. The detenu, viz., Muthu @ Veerapathiran, S/o.Chandran, aged about 53 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.)
29.11.2022

Index : Yes/No
Internet : Yes

To:

- 1.The Additional Chief Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat, Chennai – 600 009.
- 2.The Commissioner of Police,
Tiruchirappalli City, Tiruchirappalli District.
- 3.The Superintendent of Prison,
Trichy Central Prison, Trichy District.
- 4.The Inspector of Police,
Srirangam Police Station,
Tiruchirappalli District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

M.S. RAMESH, J.



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and

N. ANAND VENKATESH,J.

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