



HCP(MD)No.1818 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : **02.12.2022**

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THE HON'BLE MR JUSTICE M.S.RAMESH

AND

THE HON'BLE MR JUSTICE N. ANAND VENKATESH

H.C.P.(MD)No.1818 of 2022

Rosi .. Petitioner / wife of the detenu

Vs.

1.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 600 009.

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

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

.. 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 pertaining to the detention order in C.No.73/Detention/ C.P.O/T.C/2022, dated 20.05.2022 passed by the second respondent and set aside the same by setting the detenu namely, Ramesh @ Thuppakki Ramesh, son of Rethinam, aged about 52 years, and set him at liberty, who is detained at Central Prison, Tiruchirappalli, Tiruchirappalli District, before this Court.

For Petitioner : Mr.K.Sivabalan

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 wife of the detenu viz., Ramesh @ Thuppakki Ramesh, son of Rethinam, aged about 52 years. The detenu has been detained by the second respondent by his order in C.No.73/Detention/ C.P.O/T.C/2022, dated 20.05.2022 holding him to be a "Drug Offender", as



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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 no bail petition was filed by the detenu, relied upon the order passed in CrI.M.P.No.100 of 2019, come to a conclusion that there is a likelihood of the detenu coming out on bail. The learned counsel for the petitioner submitted that the order that was relied upon by the detaining authority cannot be considered to be a similar case and hence, the learned counsel submitted that it is clearly a non-application of mind on the part of the detaining authority to come to a subjective satisfaction.



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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. The learned Additional Public Prosecutor on instructions, submitted that the detenu was arrested in this case on 15.04.2022 and the investigation was completed and final report was filed on 28.04.2022 in time before the Special Court for E.C & NDPS Act Cases, Pudukottai. It was submitted that the final report is yet to be taken on file. There shall be a direction to the learned Additional District Judge, Pudukottai, to immediately act upon and proceed further in accordance with law.

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



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7. We have carefully gone through the order passed in CrI.M.P.No.100 of 2019 and it is seen that the accused therein was granted bail on the ground that no serious objections were raised on the side of the prosecution. In the present case, there are two adverse cases against the detenu and no bail petition was filed by the detenu in the ground case and the order that was relied upon by the detaining authority cannot be considered to be a similar case and hence, the detention order suffers from 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, therefore, liable to be quashed.

9. In the result, the Habeas Corpus Petition is allowed and the order of detention in C.No.73/Detention/ C.P.O/T.C/2022, dated 20.05.2022 passed by the second respondent is set aside. The detenu, viz., Ramesh @



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Thuppakki Ramesh, son of Rethinam, aged about 52 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.)
02.12.2022

Index : Yes/No
Internet : Yes/No
RM



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To

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Madurai Bench of Madras High Court,
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