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H.C.P.No.1328 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2023

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR
and

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

H.C.P.No.1328 of 2022

Muthulakshmi

W/o.Dass @ Mariyasusai

....

Petitioner/

Wife of the detenu

Vs.

1. The Secretary to the Government
Home, Prohibition & Excise Department
Secretariat, Fort St.George,
Chennai – 600 009
2. The District Collector & District Magistrate
Coimbatore
Coimbatore District
3. The Superintendent of Police
Coimbatore
Coimbatore District
4. The Superintendent of Police
Central Prison – Coimbatore
Coimbatore District

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5. State rep. By its
The Inspector of Police
Valparai Police Station
Coimbatore District

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus to call for the entire records, relating to the petitioner's husband detention under Tamil Nadu Act 14 of 1982 vide detention order dated 27.06.2022 on the file of the second respondent herein made in proceedings Memo Cr.M.P.No.19/D.O/2022/E1, quash the same as illegal and consequently direct the respondents herein to produce the petitioner's husband namely DASS @ MARIYASUSAI, S/o.Samuvel, aged 50 years before this Court and set the petitioner's husband at liberty from detention, now the petitioner's husband detained at Central Prison, Coimbatore.

For Petitioner	:	Mr.S.Selvakumar for Mr.W.Camyles Gandhi
For Respondents	:	Mr.R.Muniyapparaj Additional Public Prosecutor Assisted by Mr.M.Sylvester John, Advocate

ORDER

[Order of the Court was made by N.ANAND VENKATESH, J.,]

Captioned 'Habeas Corpus Petition' ['HCP' for the sake of brevity] has been filed by wife of detenu assailing a 'preventive detention order dated

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27.06.2022 bearing reference Cr.M.P.No.19/D.O/2022/E1' [hereinafter

'impugned detention order' for the sake of convenience and brevity]. To be noted, fifth respondent is the sponsoring authority and second respondent is the detaining authority as impugned detention order has been made by second respondent.

2. Impugned detention order has been made under 'The Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber law offenders, Drug-offenders, Forest-offenders, Goondas, Immoral traffic offenders, Sand-offenders, Sexual-offenders, Slum-grabbers and Video Pirates Act, 1982 (Tamil Nadu Act No.14 of 1982)' [hereinafter 'Act 14 of 1982' for the sake of convenience and clarity] on the premise that the detenu is a 'Drug Offender' within the meaning of Section 2(e) of Act 14 of 1982.

3. There are three adverse cases. The ground case which is the sole substratum of the impugned detention order is Crime No.120 of 2022 on the file of Valparai Police Station for alleged offences under Section 8(c) read with 20(b) (ii)(B) of NDPS Act. Owing to the nature of the challenge to the



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impugned detention order, it is not necessary to delve into the factual matrix or be detained further by facts.

4. Mr.S.Selvakumar, learned counsel representing the counsel on record for petitioner and Mr.R.Muniyapparaj, learned State Additional Public Prosecutor, assisted by Mr.M.Sylvester John, Advocate, for all respondents are before us.

5. The main ground that was canvassed by the learned counsel for the petitioner is that at Page No.74 of the paper book, which pertains to the Chemical Analysis Report in the second adverse case, the same is totally illegible and hence the same prevented the detenu from making an effective representation before the Authority. That apart, this was relied upon by the Detaining Authority while passing the detention order. On this ground, learned counsel sought for setting aside the detention order.

6. We have carefully gone through the material placed at page 74 of the paper book, which is captioned 'Chemical Analysis Report' pertaining to the second adverse case. We find that this document is illegible. In view of



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the same, the detenu has been deprived of an opportunity of making an effective representation and that apart, the Detaining Authority has relied upon the illegible document while passing the detention order. On this ground, the impugned detention order is liable to be interfered with by this Court.

7. Mr.R.Muniyapparaj, learned State Additional Public Prosecutor, State of Tamil Nadu, submitted that the detenu was arrested on 25.05.2022 in the course of investigation and the investigation was completed and the final report was filed on time on 16.09.2022. It was also taken on file by the EC Court, Coimbatore in C.C.No.149 of 2022. We make it clear that in event of detenu filing a bail application before the concerned Court, the same shall be considered on its own merits and in accordance with law. The order passed in this HCP will not have any bearing while dealing with the bail application.

In the result, captioned HCP is allowed. Impugned detention order dated 27.06.2022 bearing reference Cr.M.P.No.19/D.O/2022/E1 made by



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the second respondent is set aside and the detenu Thiru.Dass @
Mariyasusai, male, aged 50 years, son of Thiru. Samuvel is directed to be set
at liberty forthwith, if not required in connection with any other case / cases.

(M.S.,J.)

(N.A.V.,J.)

23.03.2023

Index : Yes / No

Speaking / Non-speaking

Neutral Citation : Yes / No

gpa

**P.S: Registry to forthwith communicate this order to Jail authorities in
Central Prison, Coimbatore.**



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To

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6. The Public Prosecutor
High Court, Madras.



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