



WEB COPY



HCP.No.1221 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.10.2023

CORAM

THE HONOURABLE MR . JUSTICE **S.S.SUNDAR**
AND
THE HONOURABLE MR. JUSTICE **SUNDER MOHAN**

H.C.P.No.1221 of 2023

Adhilakshmi

.. Petitioner

Vs.

1.State of Tamil Nadu rep. by
The Secretary to Government,
Department of Home, Prohibition and Excise,
Secretariat, Fort St George, Chennai.

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

3.Superintendent of Police,
Central Prison, Puzhal II, Chennai.

4.Inspector of Police,
PEW Red Hills Police Station,
Chennai.

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Respondents

Petition filed under Article 226 of The Constitution of India
praying for a Writ of Habeas Corpus to call for the records in Memo
No.127/BCDFGISSSV/2023 passed by the second respondent on
12.05.2023 and quash the same as illegal and consequently direct
the respondents to produce the petitioner's husband Ashok Kumar
@ Ashok, son of Chellappan, aged about 44 years, before this



HCP.No.1221 of 2023

Court, who is now detained in Central Prison, Puzhal II, Chennai and set him at liberty.

For Petitioner : Mr.A.Elumalai

For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER

[Order of the Court was made by **S.S.SUNDAR, J.**]

The petitioner, wife of the detenu Ashok Kumar @ Ashok, has come forward with this petition challenging the detention order passed by the second respondent dated 12.05.2023 slapped on her husband, branding him as "Drug Offender" 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 14 of 1982].

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.

3. Though several grounds are raised in the petition, the learned counsel for the petitioner submitted that there is a delay in passing the order of detention. In the present case, though the



HCP.No.1221 of 2023

purpose of detention. Therefore, failure on the part of the Detaining Authority in explaining such delay as in the present case also is a valid ground for quashing the Detention Order.

6. The second ground urged by the learned counsel for the petitioner is that the detaining authority relied upon the order in similar case viz., Crl.M.P.No.1842 of 2020 dated 15.12.2020. Based on the said order, the detaining authority concluded that the detenu is also likely to be released on bail. However, the fact remains that the similar case bail order viz., Crl.M.P.No.1842 of 2020 says that the accused therein was not in possession of commercial quantity and therefore Section 37 of NDPS Act would not come into play. But in the instant case, the detenu was found in possession of commercial quantity in the grounds case and therefore the same reasoning on which bail was granted in similar case cannot be applied to the present case. Therefore, we find that there is non-application of mind on the part of the detaining authority in relying on the similar case, which is not similar and the detention order is liable to be quashed on this ground also.

7. In view of the aforesaid reasons, the detention order passed by the second respondent dated 12.05.2023 in



HCP.No.1221 of 2023

No.127/BCDFGISSSV/2023, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Ashok Kumar @ Ashok, S/o.Chellappan, aged about 44 years, is directed to be set at liberty forthwith unless he is required in connection with any other case.

[S.S.S.R., J.] [S.M, J.]
12.10.2023

Index:Yes/No
Neutral Citation:Yes/No
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To

- 1.The Secretary to Government,
Department of Home, Prohibition and Excise,
Secretariat, Fort St George, Chennai.
- 2.The Commissioner of Police,
Avadi City, Avadi.
- 3.The Superintendent of Police,
Central Prison, Puzhal II, Chennai.
- 4.The Inspector of Police,
PEW Red Hills Police Station,
Chennai.
- 5.The Public Prosecutor
High Court, Madras.



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