



HCP(MD)No.188 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 10.07.2023

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**THE HON'BLE MR JUSTICE M.S.RAMESH
AND
THE HON'BLE MR JUSTICE M.NIRMAL KUMAR**

H.C.P.(MD)No.188 of 2023

Thara

.. Petitioner / mother
of the detenu

Vs.

1.The State of Tamil Nadu
rep. by Principal Secretary to Government
Home Prohibition and Excise Department,
Fort St. George, Chennai-600 009.

2.The Commissioner of Police
Trichy City, Trichy.

3.The Superintendent ,
Central Prison, Trichy

4.The Inspector of Police,
Edamalaipattipudur Police Station,
Trichy District

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the records relating to the detention order passed by the 2nd respondent in Detention order on 02.09.2022 in C.No. 123/Detention/C.P.O./T.C./2022 and to quash the same and direct the



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respondents to produce the body or person of the detenu Anand, (aged 30 years) S/o.Viswanathan, before this Court and set him at liberty, now confined at Central Prison, Trichy.

For Petitioner : Mr.P.Balasubramanian

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

(Order of the Court was made by M.S.RAMESH, J.)

The petitioner is the mother of the detenu viz., Anand, aged about 30 years, S/o.Viswanathan. The detenu has been detained by the second respondent by his order in C.No.123/Detention/C.P.O./T.C./2022 dated 02.09.2022 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



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Petition, the learned counsel appearing for the petitioner would mainly focus his argument on the ground that the detaining authority has relied upon the order passed in CrI.M.P.No.1710/2021 dated 27.12.2021 and came to the conclusion that in a similar case bail has been granted and that there is likelihood of the detenu released on bail. The learned counsel submitted that the detaining authority was aware of the fact that the detenu filed bail application in the ground case and the same was dismissed. However, it came to the conclusion that there is every possibility of the detenu coming out on bail by filing another bail application. The learned counsel for the petitioner therefore submitted that the order relied upon by the detaining authority is not similar and there is non application of mind on the part of the detaining authority.

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

5. On carefully going through the detention order, it is seen that the detenu himself has come out on bail in his own case in crime No.1168/2021, which has been relied upon in the detention order. It is also seen that the



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bail was granted in the said case, since he was not involved in any other case. However, in the present case, his involvement in Crime No.1168/2021 cannot be now considered to be a similar case. In view of his earlier involvement in Crime No.1168/2021, the present ground case cannot be considered to be a similar case and hence, the order that was relied upon by the detaining authority cannot be considered to be an order passed in a similar case.

6. In view of the above, the detention order suffers from non application of mind and the same is liable to be interfered with by this Court. The impugned detention order is, therefore, liable to be quashed.

7. In the result, the Habeas Corpus Petition is allowed and the order of detention in C.No.123/Detention/C.P.O./T.C./2022 dated 02.09.2022 passed by the second respondent is set aside. The detenu, viz., Anand S/o.Viswanathan, aged about 30 years, is directed to be released forthwith unless his detention is required in connection with any other case.

(M.S.R.,J.) (M.N.K.,J.)
10.07.2023

Internet : Yes
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To

- 1.The Principal Secretary to Government
Home Prohibition and Excise Department,
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- 2.The Commissioner of Police
Trichy City, Trichy.
- 3.The Superintendent ,
Central Prison, Trichy
- 4.The Inspector of Police,
Edamalaipattipudur Police Station,
Trichy District
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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M.S.RAMESH, J.
and
M.NIRMAL KUMAR,J.

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