



WEB COPY



HCP(MD)No.224 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.08.2023

CORAM

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

H.C.P.(MD)No.224 of 2023

M.Jothi Ramalakshmi

... Petitioner / Wife of the Detenu

Vs.

1.State of Tamil Nadu,

Rep. by The Additional Chief Secretary to the Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai – 600 009.

2.The District Collector and District Magistrate,
Tirunelveli District, Tirunelveli.

3.The Superintendent of Prison,
Central Prison, Palayamkottai,
Tirunelveli.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, calling for the records relating to the detention order passed by the 2nd respondent in



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M.H.S.Confdl.No.08/2023, dated 09.01.2023 and quash the same and direct the respondents to produce the body or detenu, namely, Muthuraman, S/o.Chithiraivel, aged about 38 years now detained at Central Prison, Palayamkottai before this Court and set him at liberty.

For Petitioner : Mr.N.Pragalathan

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

The petitioner is the wife of the detenu viz., Muthuraman, S/o.Chithiraivel, aged about 38 years. The detenu has been detained by the second respondent by his order in M.H.S.Confdl.No.08/2023, dated 09.01.2023, 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.



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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 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.O.P.(MD)No.11441 of 2022 dated 27.07.2022 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 by filing bail petition. The learned counsel for the petitioner, therefore, submitted that the order relied upon by the detaining authority is not similar insofar as in that case, the contraband involved is below the commercial quantity, however, in the present case, it is more than commercial quantity and hence, there is non application of mind on the part of the detaining authority.



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4.The learned Additional Public Prosecutor strongly opposed the Habeas Corpus Petition by filing his counter and on instructions from Mr.P.Mahesh Kumar, Investigating Officer, Ambasamudram Police Station, submitted that the charge sheet is filed on 15.06.2023 through e-filing No.CC/2548/2023/TNM0050026052023.

5.On carefully going through the detention order, it is seen that in the order that was relied upon by the detaining authority in CrI.O.P.(MD)No.11441 of 2022 dated 27.07.2022, the accused therein was enlarged on bail since the contraband, which was recovered from the vehicle of the petitioner, is below the commercial quantity. However, in the present case, the contraband is more than commercial quantity. 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.



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7.In the result, the Habeas Corpus Petition is allowed and the order of detention in M.H.S.Confdl.No.08/2023, dated 09.01.2023 passed by the second respondent is set aside. The detenu, viz., Muthuraman, S/o.Chithiraivel, aged about 38 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.)

07.08.2023

NCC : Yes / No

Index : Yes / No

Yuva

To

- 1.The Additional Chief Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 600 009.
- 2.The Joint Secretary to Government,
Public Law and Order,
Fort St.George, Chennai-600 009.
- 3.The District Collector and District Magistrate,
Tirunelveli District, Tirunelveli.

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4. The Superintendent of Prison,
Central Prison, Palayamkottai,
Tirunelveli.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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