



HCP(MD)No.243 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 10.08.2023

CORAM

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

H.C.P.(MD)No.243 of 2023

V.Muthuselvi

.. Petitioner /Wife of the Detenu

Vs.

1.The Additional Chief Secretary to Government,
Government of Tamil Nadu,
Home, Prohibition and Excise IX,
Secretariat,
George Fort,
Chennai – 600 009.

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

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

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, calling for the records on the file of the second respondent in H.S.(M)Confdl.No.238/2022 dated 11.11.2022 and set-aside the order of detention passed therein in; direct the respondents to



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produce the detenu by name M.Vigneshwaran, Male, aged 31 years, S/o.Mariappan (the detenu) before this Court, now detained at Central Prison, Palayamkottai and set-aside the order of detention passed therein in, and set him at liberty forthwith.

For Petitioner : Mr.J.William Christopher

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., Vigneshwaran, aged about 31 years, S/o.Mariappan. The detenu has been detained by the second respondent by his order in H.S.(M)Confdl.No.238/2022 dated 11.11.2022 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.



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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 stated in the detention order that the detenu is an active rowdy and his activities are under watch by Keerathurai Police Station at Madurai District. However, the said statement is not supported by any materials. Hence, the detention order suffers from non application of mind and the same is liable to be interfered with.

4. The learned Additional Public Prosecutor has not filed his counter. However, he strongly opposed the Habeas Corpus Petition. It is further submitted that investigation has been completed in this case and charge sheet has been filed on 10.03.2023 in E-filing No.CC/1617/2023 – TNMDO50016602023 dated 05.04.2023 and the same is yet to be numbered.

5. On carefully going through the detention order, it is seen that the detaining authority, while passing the detention order, has observed that the



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detenu is an active rowdy and his activities are under watch by Keerathurai Police Station at Madurai District. To substantiate such a statement, no reference has been made to any previous or adverse cases against the detenu. As such, the subjective satisfaction, arrived at by the detaining authority in this aspect, is questionable. Hence, the impugned detention order is liable to be quashed.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in H.S.(M)Confdl.No.238/2022 dated 11.11.2022 passed by the second respondent is set aside. The detenu, viz., Vigneshwaran, S/o.Mariappan, aged about 31 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.)
10.08.2023

NCC : Yes / No
Index : Yes / No
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Thoothukudi.
3. The Superintendent of Central Prison,
Palayamkottai Central Prison,
Tirunelveli.
4. The Joint Secretary to Government,
Public (Law and Order),
Fort St. George, Chennai.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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and
M.NIRMAL KUMAR,J.

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