



HCP(MD)No.363 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.07.2023

CORAM

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

H.C.P.(MD)No.363 of 2023

Sivani

.. Petitioner /Wife of the Detenu

Vs.

1.State of Tamil Nadu,
represented by its Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Secretariat,
Chennai – 600 009.

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

3.The Superintendent,
Central Prison,
Tiruchirappalli.

.. 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 second respondent in his proceedings C.No.01/Detention/C.P.O/TC/2023 dated 12.01.2023 and quash the same



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and direct the respondents to produce the person or body of the detenu namely Vignesh, S/o.Elango aged 30 years, (now detained at Central Prison, Trichy) before this Court and set him at liberty.

For Petitioner : Mr.N.Anandakumar

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

Today, the connected miscellaneous petition in CrI.M.P.(MD). No.10153 of 2023 was listed before this Court and final orders came to be passed. At this stage, we have noticed that the detention order passed in the present case is dated 12.01.2023. This Court has already dealt with the detention orders passed in the month of January 2023 and accordingly, took up the present Habeas Corpus Petition for final disposal with the consent of both the parties.

2. The petitioner is the wife of the detenu viz., Vignesh, aged about 30 years, S/o.Elango. The detenu has been detained by the second



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respondent by his order in C.No.01/Detention/C.P.O/TC/2023 dated 12.01.2023 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.

3. 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.

4. 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 Cr.M.P.No.2196/2022 dated 20.09.2022 and came to the conclusion that in a similar case bail has been granted to the same accused 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, which was dismissed and subsequently, he filed another bail application and the same is pending. The learned counsel for the petitioner therefore submitted that



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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.

5. The learned Additional Public Prosecutor has not filed his counter. However, he strongly opposed the Habeas Corpus Petition.

6. On carefully going through the detention order, it is seen that in the order that was relied upon by the detaining authority in Cr.M.P.No. 2196/2022 dated 20.09.2022, relating to the same detenu, bail was granted without reference to any previous pending cases. However, in the ground case, the detenu's earlier bail application was dismissed on the ground that he was involved in previous cases. Hence, the order that was relied upon by the detaining authority cannot be considered to be an order passed in a similar case.

7. 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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8. In the result, the Habeas Corpus Petition is allowed and the order of detention in C.No.01/Detention/C.P.O/TC/2023 dated 12.01.2023 passed by the second respondent is set aside. The detenu, viz., Vignesh, S/o.Elango, 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.)
31.07.2023

NCC : Yes / No
Index : Yes / No
Lm

To

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

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

3.The Superintendent,
Central Prison,
Tiruchirappalli.



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

Lm

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