



HCP(MD)No.485 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 07.09.2023

CORAM

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

H.C.P.(MD)No.485 of 2023

Alamelu

.. Petitioner / Mother of the
Detenu

Vs.

1.The State of Tamil Nadu,
Rep. by its Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai – 600 009.

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

3.The Superintendent of Prison,
Central Prison, Tiruchirapalli.

4.The Inspector of Police,
Ramjee Nagar Police Station,
Trichy City.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to
issue a writ of Habeas Corpus, calling for the entire records relating to the



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detention of petitioner's son namely Madhan alias Madhubalan, S/o.Baskar, aged about 30 years under Section 2(e) of the Tamil Nadu Act 14 of 1982 vide Detention order dated 02.03.2023 made in Cr.M.P.No.02/2023 passed by the 2nd respondent herein and quash the same and consequently direct the respondents herein to produce the person or body of the detenu Madhan @ Madhubalan, Son of Baskar, aged about 30 years now confined at Central Prison, Tiruchirapalli before this Court and set him at liberty.

For Petitioner : Mr.M.Ragul for
M/s.Gandhi Associates

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., Madhan alias Madhubalan, aged about 30 years, S/o.Baskar. The detenu has been detained by the second respondent by his order in Cr.M.P.No.02/2023, dated 02.03.2023, 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.M.P.No.1661 of 2018, dated 13.08.2018 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 has not filed any bail application in the ground case. 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. On carefully going through the detention order, the detaining authority was aware of the fact that no bail application was filed by the detenu in the ground case. However, the detaining authority took into consideration the order passed in CrI.O.P.(MD).No.1681 of 2018 dated



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13.08.2018 and came to the conclusion that there is a likelihood of the detenu coming out on bail. Perusal of the order shows that the contraband involved therein is intermediate quantity of 2.500 Kgs of Ganja. However, in the present case, the contraband involved is commercial quantity of 19 Kgs of Ganja and hence, the bail order that was relied upon by the detaining authority cannot be considered to be a similar one.

5. 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.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in Cr.M.P.No.02/2023 dated 02.03.2023 passed by the second respondent is set aside. The detenu, viz., Madhan alias Madhubalan, S/o.Baskar, 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.)
07.09.2023

NCC : Yes / No
Index : Yes / No
vsm



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Madurai Bench of Madras High Court,
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