



HCP(MD)No.1125 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 10.01.2023

CORAM

**THE HON'BLE DR.JUSTICE G.JAYACHANDRAN
AND
THE HON'BLE MR.JUSTICE SUNDER MOHAN**

H.C.P.(MD)No.1125 of 2022

M.Keerthiga

.. Petitioner / Wife of the
Detenu

Vs.

1.The Additional Chief Secretary to Government,
Government of Tamilnadu,
Home, Prohibition and Excise IX Department,
Secretariat,
Fort St.George,
Chennai-600 009.

2. The District Collector and District Magistrate,
Thanajvur District,
Thanjavur.

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

.. Respondents



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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 P.D.No.58/2022 dated 27.05.2022 and to quash the same and direct the respondents to produce the person or body of the detenu, namely, Viji alias Vijayakumar, aged 35 years, son of Kaliyamoorthy, now detained at Central Prison, Tiruchirappalli, and set him at liberty forthwith.

For Petitioner : Mr.J.William Christopher

For Respondents : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

ORDER

DR.G.JAYACHANDRAN, J.
and
SUNDER MOHAN, J.

This Habeas Corpus Petition is filed by the wife of the detenu, challenging the detention order on the ground of non application of mind.

2. The learned counsel for the petitioner submitted that Viji alias Vijayakumar is the husband of the petitioner, was arrested on 02.05.2022 in



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a case registered for the offence under Sections 147, 148, 294(b), 324, 307 and 506(ii) IPC in Crime No.94 of 2022 on the file of the Kallaperambur Police Station, Thanjavur District. The preventive detention order was passed on 07.05.2022 and one of the ground for subjective satisfaction to slap the preventive detention order is that there is a real possibility of getting bail from the regular Court. A case of the year 2013 been referred for arriving at such conclusion whereas the learned counsel for the petitioner would submit that the petitioner herein sought for bail before the Principal District and Sessions Court, Thanjavur in Cr.M.P.No.2451/2022 and the same was dismissed on 26.05.2022. In spite of the knowledge about the dismissal of the bail petition filed by the detenu, the detaining authority has recorded that there is a real possibility of the detenu coming out on bail in future by referring a case which has no relevance to the facts of the present case.

3. This Court, after giving anxious consideration to the said submission, gone through the order passed by the learned Principal District and Sessions Judge, dismissing the bail petition a day prior to the detention



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order. For the antecedents of the petitioner, a history sheet was opened against him and a number of cases were pending against him. With all the given facts, the learned Principal District and Sessions Judge considered the bail petition and dismissed the same. The detaining authority, based on presumption by referring an unrelated case, has arrived at a conclusion that there is a real possibility of the detenu coming out on bail, which is factually incorrect. For the said reasons impugned detention order is liable to be quashed.

4. In the result, the Habeas Corpus Petition is allowed and the order of detention in P.D.No.58/2022 dated 27.05.2022 passed by the second respondent is set aside. The detenu, viz., Viji alias Vijayakumar, aged 35 years, son of Kaliyamoorthy, is directed to be released forthwith unless his detention is required in connection with any other case.

[G.J.,J.] & [S.M.,J.]
10.01.2023

Index: Yes/No
Internet: Yes/No

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4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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