



H.C.P.(MD) No.1259 of 2022

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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**DATED : 20.03.2023**

**CORAM:**

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR**

**AND**

**THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN**

**H.C.P.(MD)No.1259 of 2022**

Ramesh ... Petitioner / Detenue  
(Now, confining at Madurai Central Prison)

**Vs.**

- 1.The Additional Chief Secretary to Government,  
Home, Prohibition and Excise Department,  
Secretariat, Chennai-600 009.
- 2.The District Collector and District Magistrate,  
Office of the District Collector and District Magistrate,  
Madurai District.
- 3.The Superintendent of Prison,  
Madurai Central Prison, Madurai District. ...Respondents

**PRAYER:** Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the entire records connected with the detention order passed in B.C.D.F.G.I.S.S.V.No.43 / 2022 dated 25.06.2022 on the file of the 2<sup>nd</sup> respondent herein and quash the same and direct the respondents to produce the body of person of the detenu by name



**H.C.P.(MD) No.1259 of 2022**

Ramesh, S/o.Ammasi @ Ammavasi, aged about 44 years, now detained as “Drug Offender” at Madurai Central Prison, before this Court and set him at liberty.

For Petitioner : Mr.R.Alagumani

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

**ORDER**

(Order of the Court was made by ***R.SURESH KUMAR, J.***)

The petitioner is the detenu, namely, Ramesh, S/o.Ammasi @ Ammavasi, aged about 44 years, who has been detained by the 2<sup>nd</sup> respondent by his proceedings in B.C.D.F.G.I.S.S.S.V.No.43 / 2022 dated 25.06.2022, 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.The petitioner is the detenu, who was arrested in the ground case on 30.05.2022 and subsequently, Act 14 of 1982 has been slapped against the petitioner / detenu and the order of detention was passed on 25.06.2022 branding him as 'Drug Offender' under the said Act.



H.C.P.(MD) No.1259 of 2022

3.Among various grounds, the learned counsel appearing for the petitioner has vehemently projected the ground that insofar as the ground case is concerned, against both the petitioner / detenue and his wife, who is the co-accused, Act 14 of 1982 was invoked and insofar as the wife of the petitioner, namely, Vimala is concerned, she filed H.C.P.(MD)No.833 of 2022, where the Division Bench of this Court, by an order dated 28.11.2022, having considered the detention order made against her, set aside the order by allowing the said Habeas Corpus Petition. He would also submit that insofar as the reason for such decision taken by the Division Bench of this Court in respect of the petitioner's wife, who was the co-accused in the ground case is concerned, similar case theory though was invoked by the detaining authority and the bail order, which was relied upon by the detaining authority in the similar case, which was in English and the Tamil translated version has not been furnished to the detenue, despite the same was asked by the detenue, the learned Judges in the said Division Bench of this Court had allowed the said Habeas Corpus Petition.

4.Citing the same, the learned counsel for the petitioner would submit that in the present case also in respect of this petitioner / detenue,



**H.C.P.(MD) No.1259 of 2022**

there is a similar case theory, where they relied upon the bail granted in Crl.M.P.No.54 of 2022 dated 11.02.2022 on the file of the Principal Special Court for EC & NDPS Act Cases, Madurai. However, the said bail order dated 11.02.2022 has been furnished in the paper booklet only in English. Despite the same has been asked for through his representation to supply the same in Tamil, that has not been considered.

5.In this regard, the learned Additional Public Prosecutor for the respondents submitted that now the law has developed, where even without invoking the theory of similar case, effectively Act 14 of 1982 can be slapped in the respective cases, wherever it is required on other reasons and grounds. However, since that was the practice and law prevailing at the time when the Act 14 of 1982 has been invoked against that detainee, the said view has been taken by the Division Bench of this Court dated 28.11.2022 he contended.

6.Having considered the said submissions made on either side, in this case also against the detainee, since the similar case theory was invoked and copy of the bail order referred to above has been supplied to the detainee



**H.C.P.(MD) No.1259 of 2022**

only in English and not in Tamil though it was asked for by his representation, therefore, in agreement with the said view taken by the earlier Division Bench in the aforestated Habeas Corpus Petition, especially, in Paragraph No.5 of the order, we are of the view that, in this case also since the bail order in the similar case has not been furnished to the detenue in Tamil though it was asked, on that ground alone we are inclined to allow this Habeas Corpus Petition. Accordingly, the impugned detention order passed by the 2<sup>nd</sup> respondent in B.C.D.F.G.I.S.S.S.V.No.43 / 2022, dated 25.06.2022 is set aside. In the result, this Habeas Corpus Petition is allowed. As a sequel, there shall be a direction to the 3<sup>rd</sup> respondent to set the detenue, namely, Ramesh, S/o.Ammasi @ Ammavasi, aged about 44 years, at free, if his presence in the jail is not required for any other cases.

**(R.S.K., J.) & (K.K.R.K, J.)**  
**20.03.2023**

NCC : Yes / No  
Index : Yes / No  
Internet : Yes / No

*MYR*



H.C.P.(MD) No.1259 of 2022

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To

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Home, Prohibition and Excise Department,  
Secretariat, Chennai-600 009.
- 2.The District Collector and District Magistrate,  
Office of the District Collector and District Magistrate,  
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- 3.The Superintendent of Prison,  
Madurai Central Prison, Madurai District.
- 4.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.



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H.C.P.(MD) No.1259 of 2022

**R.SURESH KUMAR, J.**  
**AND**  
**K.K.RAMAKRISHNAN, J.**

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**H.C.P.(MD)No.1259 of 2022**

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