



HCP(MD)No.789 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 18.08.2023

CORAM

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

H.C.P.(MD)No.789 of 2023

Banupriya

.. Petitioner /Wife of the detenu

Vs.

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

2.The District Collector and the District Magistrate,  
Kanniyakumari District at Nagercoil.

3.The Superintendent of Prison,  
Palayamkottai Central Prison,  
Tirunelveli 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 of the respondent no.2 in P.D.No.06/2023 dated 23.02.2023 and quash the same and direct the respondents to produce the



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detenu by name Manivannan, son of Ayyappan aged about 28 years, now detained in Palayamkottai Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Vinoth Bharathi  
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., Manivannan, aged about 28 years, S/o.Ayyappan. The detenu has been detained by the second respondent by his order in P.D.No.06/2023 dated 23.02.2023 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.

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 had inferred that the detenu is a notorious criminal and he is committing grave crimes by violating the NDPS Act, which is bereft of particulars and on that score, the detention order is liable to be interfered with.

4. The learned Additional Public Prosecutor strongly opposed the Habeas Corpus Petition by filing his counter.

5. On carefully going through the detention order, it is seen that the detaining authority, while arriving at a subjective satisfaction, had made a statement that the detenu is a notorious criminal and he is committing grave crimes by violating the Narcotic Drugs and Psychotropic Substances Act, 1985. However, no reference has been made to any previous or adverse cases that involves the detenu herein and as such, the subjective satisfaction arrived at by the detaining authority would amount to non-application of mind. Hence, the consequential detention order cannot be sustained.



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6. In the result, the Habeas Corpus Petition is allowed and the order of detention in P.D.No.06/2023 dated 23.02.2023 passed by the second respondent is set aside. The detenu, viz., Manivannan, S/o.Ayyappan, aged about 28 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.)**  
**18.08.2023**

NCC : Yes / No  
Index : Yes / No  
Lm

To

- 1.The Secretary to Government,  
Home, Prohibition and Excise Department,  
State of Tamilnadu,  
Fort St.George,  
Chennai – 600 009.
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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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