



HCP(MD)No.1342 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 16.02.2023

CORAM

**THE HON'BLE DR. JUSTICE G.JAYACHANDRAN
AND
THE HON'BLE MR JUSTICE K.K. RAMAKRISHNAN**

H.C.P.(MD)No.1342 of 2022

P.Pandiselvi

.. Petitioner /Daughter of the
Detenu

Vs.

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

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

3.The Superintendent,
Special Prison for Women,
Madurai.

.. Respondents

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.S.V.No.51 of 2022, dated



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25.07.2022 on the file of the 2nd respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu namely the petitioner's mother ie., Panjavarnam, aged about 50 years, W/o.Murugan @ Pandimurugan, now detained at the Special Prison for Women, Madurai, before this Court and set her at liberty forthwith.

For Petitioner :Mr.N.Pragalathan

For Respondents :Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

DR. G.JAYACHANDRAN,J.
and
K.K. RAMAKRISHNAN,J.

This Habeas Corpus Petition is filed by the daughter of the detenu viz., Panjavarnam, aged about 50 years, W/o.Murugan @ Pandimurugan. The detenu has been detained by the second respondent, by his order in B.C.D.F.G.I.S.S.S.V.No.51 of 2022, dated 25.07.2022 holding her 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.The ground case indicates that the mother of the petitioner viz., Panjavarnam along with one Radha were intercepted by Checkkanurani Police Station, Madurai, based on specific information that they are involved in drug offence and on searching, 22 kgs of Ganja was recovered from them. A case has been registered the detenu in Crime No.208 of 2022 for the offence under Sections 8(c) r/w 20(b)(ii)(c) of NDPS Act.

4.According to the petitioner, the detaining authority, taking note of the fact that the accused Panjavarnam had already involved in a similar case, has passed the detention order being satisfied that if she comes out on bail, she will indulge in similar offence and further quotes that in similar case a bail has been granted. Challenging the said detention order, the present Habeas Corpus Petition is filed.

5.The learned counsel appearing for the petitioner submitted that the detaining authority took into consideration the order passed in the similar case cited in the detention order, in which, bail granted was not on merits, since the final report was not filed even after the statutory period prescribed under Section 167(2) Cr.P.C, whereas, in the case in hand, final report had



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already been filed, on 21.09.2022. Therefore, the reasoning for the subjective satisfaction is incorrect. The learned counsel further submitted that earlier bail petition moved by the detenu was dismissed, in view of the fact that the contraband is commercial quantity and there is a bar under Section 37(2) of NDPS Act. Therefore, the order that was relied upon by the detaining authority is not a similar case and hence, the detention order suffers from non application of mind.

6.This Court, on perusing the records, finds that the apprehension of the detaining authority is that if the accused person is not detained preventively, possibility of getting bail is not sustainable, in view of the fact that the charge against the accused is for possession of commercial quantity of Ganja. Thus, it reflects non application of mind on the part of the detaining authority. The impugned detention order is, therefore, liable to be quashed.

7. In the result, the Habeas Corpus Petition is allowed and the order of detention in in B.C.D.F.G.I.S.S.V.No.51 of 2022, dated 25.07.2022 passed by the second respondent is set aside. The detenu, Panjavarnam,



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aged about 50 years, W/o.Murugan @ Pandimurugan, is directed to be released forthwith unless her detention is required in connection with any other case.

(G.J.,J.) (K.K.R.K.,J.)
16.02.2023

NCC :Yes/No

Index:Yes/No

Internet:Yes/No

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To

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.
- 2.The District Collector and District Magistrate,
Madurai District,
Madurai.
- 3.The Superintendent,
Special Prison for Women,
Madurai.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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