



HCP(MD)No.1501 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 09.01.2023

CORAM

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

H.C.P.(MD)No.1501 of 2022

D.Subhashini

.. Petitioner/Daughter of the
Detenu

Vs.

1.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-600 009.

2.The District Collector and District Magistrate,
Dindigul Collector Office,
Dindigul District.

3.The Superintendent,
Central Prison,
Madurai.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to
issue a writ of Habeas Corpus, to call for the entire records connected with
the detention order passed in Detention Order No.45/2022 dated 21.05.2022



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on the file of the 2nd respondent herein and quash the same as illegal and direct the respondents to produce the body or person of the detenu namely, the petitioner's father, ie. M.Dhanapandi, son of Mokkaia Thevar, aged about 62 years, now detained at the Central Prison, Madurai, before this Court and set him at liberty forthwith.

For Petitioner : Mr.G.Karuppasamy Pandian
for Mr.NA Manimaran

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

ORDER

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

This petition is filed by the daughter of the detenu, who was detained under Act 14 of 1982, by the second respondent vide order dated 21.05.2022 in Detention Order No.45/2022, branding him as a 'Drug Offender', for committing offence under Sections 8(c) r/w 20(b) (ii) (B) of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered in Crime No.97/2022 on the file of the Kannivadi Police Station.



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2. The learned counsel appearing for the petitioner submitted that the petitioner has not filed any bail petition in the ground case, but the Detaining Authority has presumed that there is a real possibility of getting bail and has referred a similar case as if bail was granted by the trial Court whereas bail was granted by the High Court, which exposes the non application of mind on the part of the detaining authority. He further submitted that the bail order copy of the alleged similar case is not legible and not readable. This has prejudiced the detenu from making an effective representation.

3. The learned Additional Public Prosecutor appearing for the State would submit that the detenu in this case has two adverse cases involving NDPS Act. The first case in which he is the accused in possession of 60 kgs of Ganja at the time of seizure, which is a subject matter of Crime No.492 of 2021 wherein he has not preferred any bail petition and he was absconding and was secured after filing of final report, which was taken on file as C.C.No.194/2022 on the file of the EC & NDPS Act Cases Court, Madurai. Meanwhile, he was involved in the second adverse case in Crime No.



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87/2022, possessing of 1.500 kgs of Ganja in which he has preferred a bail petition and the same is pending at the time of passing the detention order.

The third case is the ground case in which he is possessing 5 kgs of Ganja where he has not filed any bail petition, but the detaining authority has reasonably believed that soon, the detenu will be file bail petition in this case and hence, there is a likelihood of getting bail. In respect of illegible copy in English given to the detenu, the learned Additional Public Prosecutor drew out attention to the Tamil translation of the said order and submitted that the Tamil translated copy is legible and readable and the detenu, who is competent in tamil can read it and make his representation effectively and therefore, no prejudice been caused to him by furnishing illegible English copy of the bail order.

4. This Court, on considering the facts on a whole and the reasoning given by the detaining authority to arrive at subjective satisfaction to preventively detain the detenu, finds no infirmity in the reasoning given since the detenu been shown as an offender where commercial quantity of Ganja involved and he was absconding till the final report was filed and



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before he could be secured, he was involved in similar offences. The likelihood of getting bail in offences involving in-between quantity of possessing Narcotic Drug is common and therefore, the inference drawn by the detaining authority recording the real possibility of getting bail in offences involving in-between quantity of Narcotic Drug, also is acceptable. Therefore, this Court finds no reason to interfere with the detention order and accordingly, this Habeas Corpus Petition is dismissed.

[G.J.,J.] & [S.M.,J.]
09.01.2023

Index: Yes/No
Internet: Yes/No

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Madurai Bench of Madras High Court,
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