



HCP(MD)No.1502 of 2022

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, calling for the entire records relating to the detention order passed by the 2nd respondent in Detention Order on 25.06.2022 in B.C.D.F.G.I.S.S.S.V.No.44/2022 and to quash the same and direct the respondents to produce the body or person of the detenu, Tamilselvi,(aged 43 years), W/o.Sivan, before this Court and set her at liberty, now confined at Women Special Prison, Madurai.

For Petitioner :Mr.D.Rameshkumar

For Respondents :Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

This Habeas Corpus Petition is filed by the daughter of the detenu viz., Tamilselvi, aged about 43 years, W/o.Sivan. The detenu has been detained by the second respondent, by his order in B.C.D.F.G.I.S.S.S.V.No. 44/2022, dated 25.06.2022 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.



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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.

3. The detention order indicates that the detenue involved in drug offence and her presence is menace of the society. Further, two adverse cases are pending against the detenu wherein she was found in possession of 250gms of ganja and 1kg and 200gms of ganja respectively and in the ground case, she was found in possession of 1kg 300gms of ganja.

4. The learned counsel appearing for the petitioner submitted that one of the ground case, the alleged possession of ganja was not with the detenu, but, with the co-accused.

5. It is to be noted here that the co-accused is none other than the son of the detenu. Though several points were canvassed challenging the detention order, the primary point canvassed by the learned counsel for the petitioner is that the co-accused in the ground case was also detained under the Act 14, of 1982, but, the Advisory Board has revoked the said detention



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order. The same parity has also to be extended to the detenu Tamilselvi, who even according to the prosecution, was not physical possession of the contraband, but only constructive possession.

7. Considering the aforesaid submissions made by the learned counsel for the petitioner, this Court finds that the impugned detention order is, liable to be quashed.

8. In the result, the Habeas Corpus Petition is allowed and the order of detention in B.C.D.F.G.I.S.S.S.V.No.44/2022, dated 25.06.2022 passed by the second respondent is set aside. The detenu, Tamilselvi, aged about 43 years, W/o.Sivan, is directed to be released forthwith unless her 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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To

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-9.
- 2.The District Collector and District Magistrate,
Madurai District, Madurai.
- 3.The Superintendent,
Women Special Prison,
Madurai.
- 4.The Inspector of Police,
Nagamalaipudukkottai Police Station,
Madurai.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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