



HCP(MD)No.1574 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 20.02.2023

CORAM

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

H.C.P.(MD)No.1574 of 2022

A.Thirumalaisamy

.. Petitioner

Vs.

1.The Additional Chief Secretary of Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-9.

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

3.The Superintendent of Prison,
Central Prison,
Palayamkottai.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to
issue a writ of Habeas Corpus, calling for the records pursuant to the



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proceedings of the second respondent in Detention Order M.H.S.Confdl No. 65/2022, dated 13.06.2022 quash the same and consequently direct the respondents to produce the detenu, namely, Thirumalaikumar, S/o.Thirumalaisamy, aged 27 years, who is now detained in Central Prison, Palayamkottai before this Court and set him at liberty.

For Petitioner :Mr.P.Praveenkumar

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

ORDER

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

This habeas corpus petition is filed by the petitioner/detenu to quash the detention order on the ground that the detaining authority has not applied his mind while arrive at subjective satisfaction that there is mere possibility of getting bail and if the detenu released on bail, it will cause disturbance to the public peace.

2. The learned counsel appearing for the petitioner would submit that on 25.05.2022 the detenu was arrested in a ground case in Cr.No.178 of



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2022 for an offence under Section 394 IPC. Citing the bail order granted to one Pitchaimuthu under Section 167(2) Cr.P.C., the detaining authority has concluded that the petitioner will also likely to get bail. According to the learned counsel for the petitioner, in this case, investigation has been completed and final report was filed on 23.06.2023 which has been taken on file in C.C.No.255 of 2022 by the learned Judicial Magistrate, Tenkasi and therefore, there is no possibility of getting bail on default.

3. The learned Additional Public Prosecutor appearing for the respondents would submit that at the time of slapping the detention order, final report was not filed and therefore, possibility of getting bail was imminent.

4. This Court, on perusing the records, finds that there is one adverse case against the petitioner registered in the year 2018 for the offences under Sections 147, 148, 294(b), 324, 326, 307 and 506(ii) IPC. Since some cases referred by the detaining authority where bail was granted is not a similar case, this Court finds that the detention order suffers non-application of mind.



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5. In fine, the Habeas Corpus Petition is allowed. The detention order passed in M.H.S.Confdl No.65/2022, dated 13.06.2022, by the 2nd respondent, is set aside. Consequently, the detenu viz., Thirumalaikumar, S/o.Thirumalaisamy, aged about 27 years, who is now detained in Central Prison, Palayamkottai, is directed to be released forthwith, unless his presence or custody or detention is required in connection with any other case.

(G.J.,J.) (K.K.R.K.,J.)
20.02.2023

Index:Yes/No
Internet:Yes/No
NCC :Yes/No
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- 2.The District Collector and
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Tenkasi District.
- 3.The Superintendent of Prison,
Central Prison,
Palayamkottai.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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

ORDER MADE IN

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20.02.2023