



H.C.P(MD)No.1619 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 09.02.2023

CORAM

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

H.C.P.(MD)No.1619 of 2022

R.Manimegalai

.. Petitioner/Wife of the
Detenu

Vs.

1.The State of Tamil Nadu,
Rep., by the Additional Chief Secretary to Government,
Government of Tamil Nadu,
Home, Prohibition & Excise Department,
Chennai-9.

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

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, directing the respondents to call for the
records pertaining to the proceedings of the 2nd respondent made in his



H.C.P(MD)No.1619 of 2022

proceedings in Detention Order in B.C.D.F.G.I.S.S.S.V.No.37/2022 dated 06.06.2022 and quash the same and set the petitioner's husband, by name, Ramesh, son of Pandi, aged about 35 years, at liberty from Central Prison, Madurai/3rd respondent herein.

For Petitioner : Mr.M.Jagadeesh Pandian

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

The wife of one Ramesh, who has been detained under Act 14 of 1982 branding him as 'Drug Offender' for being involved in transporting 322 Kgs of Ganja illegally along with three other accused in a white colour TATA Sumo car bearing Registration No.TN 02 H 1008 during the vehicle check up conducted based on the secret information received on 24.03.2022, is before this Court to quash the detention order dated 06.06.2022.



H.C.P(MD)No.1619 of 2022

WEB COPY

2. Heard the learned counsel on either side and perused the records produced before this Court.

3. According to the petitioner, the detention order suffers from non application of mind. The similar case referred to infer probability of getting bail is not similar since the said case cited as similar case, bail was granted under Section 167(2) Cr.P.C., for the default of the prosecution not filing the final report within the statutory time prescribed whereas in the present case, final report filed within time and taken on file by the NDPS Court, Madurai in C.C.No.312 of 2022. Further, he would submit that the Booklet does not contain the detention order which has disabled the petitioner to make effective representation. He made a further plea that illegible copy was furnished to the detenu, particularly page No.353 of the Booklet is not legible. Hence, the detenu was unable to make effective representation.

4. Detailed counter been filed by the second respondent refuting the averments made in the affidavit in support of this Habeas Corpus Petition.



H.C.P(MD)No.1619 of 2022

WEB COPY

This Court, after anxious consideration of the rival submissions and the pleadings, find that this detenu by name Ramesh has one previous case, which was registered in the year 2010 and the same is pending. According to the learned Additional Public Prosecutor, the reasonable apprehension of getting bail was before filing final report in the case in hand and therefore, this Court does not find any error in the order of the detaining authority. Insofar as the similar case, his conclusion of apprehending release on bail is based on the case referred as similar case. However, the conclusion of the detaining authority that if he comes out on bail, he will indulge in similar activities which will prejudice the maintenance of public order and public health does not find any material packing. One adverse case cited which alleged to have occurred nearly 12 years ago cannot be the reason to formulate such opinion. Hence, for the said reason, the detention order is liable to be quashed.

5. 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.37/2022 dated 06.06.2022 passed by the second respondent is set aside. The detenu, viz., Ramesh, son of Pandi,



H.C.P(MD)No.1619 of 2022

aged about 35 years, is directed to be released forthwith unless his detention is required in connection with any other case.

[G.J.,J.] & [K.K.R.K.,J.]
09.02.2023

Internet :Yes
Index :Yes/No
NCC :Yes/No
PJI

To

1.The Additional Chief Secretary to Government,
Government of Tamil Nadu,
Home, Prohibition & Excise Department,
Chennai-9.

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

3.The Superintendent,
Central Prison,
Madurai.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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H.C.P(MD)No.1619 of 2022

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and
K.K.RAMAKRISHNAN, J.**

PJL

H.C.P.(MD)No.1619 of 2022

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