



H.C.P(MD)No.1630 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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.1630 of 2022

K.Velusamy

.. Petitioner/Father 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



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records pertaining to the proceedings of the 2nd respondent made in his proceedings in Detention Order in B.C.D.F.G.I.S.S.S.V.No.38/2022 dated 06.06.2022 and quash the same and set the petitioner's son, by name, Deivam, son of Velusamy, aged about 47 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 father of one Deivam, who has been detained under Act 14 of 1982 branded him as 'Drug Offender', is before this Court to quash the detention order dated 06.06.2022 on the ground that the detaining authority does not applied his mind regarding the similar case and also not furnished copy of the G.O.No.107, Home, Prohibition and Excise (XVI) Department, dated 11.04.2022 referred in the detention order and would submit that



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Page No.353 of the Booklet is not legible to make effective representation.

2. Heard the learned counsel on both side and perused the records placed before this Court.

3. The second respondent has filed a detailed counter refuting the averments made in the affidavit of the petitioner. In the counter, it is stated that in the similar case, for commercial quantity, the accused were granted bail under Section 167(2) of Cr.P.C., and when the detention order passed there was every reason to apprehend that the investigation could not be completed within the time. Regarding the non-furnishing of copy of G.O.No.107, Home, Prohibition and Excise (XVI) Department, dated 11.04.2022, the learned Additional Public Prosecutor would submit that the said Government Order refers the power of the District Collector to act as a detaining authority under Act 14 of 1982 and no reason assigned to furnish the said Government Order and if at all, the detenu had any reason to doubt the authority, he could have sought for the copy of the said Government Order. Regarding the furnishing the legible copy, the learned Additional



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Public Prosecutor submitted that the Booklet contains only 303 pages and it is incorrect to allege that page 353 in the Booklet is not legible.

4. Though the above reasoning found in the counter affidavit are tenable and acceptable, regarding the subjective satisfaction that the detenu is a threat to the society except a case registered in the year 2015 under the Prohibition Act and another case registered in the year 2021 for possessing 7 kgs of Ganja, is not taken on file, indicates that so far the investigation which is not completed and final report filed. Therefore, the satisfaction of the detaining authority that the presence of the detenu, namely, Deivam will cause breach of peace and threat to public health is unfound and hence the detention order is vitiated for non-application of mind, accordingly set aside.

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.38/2022 dated 06.06.2022 passed by the second respondent is set aside. The detenu, viz., Deivam, son of Velusamy, aged about 47 years, is directed to be released forthwith unless



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his detention is required in connection with any other case.

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

Internet :Yes
Index :Yes/No
NCC :Yes/No
PJL

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,
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Madurai.

3.The Superintendent,
Central Prison,
Madurai.

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.**

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