



HCP(MD)No.1836 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 06.07.2023

CORAM

**THE HON'BLE MR JUSTICE M.S.RAMESH
AND
THE HON'BLE MR JUSTICE M.NIRMAL KUMAR**

H.C.P.(MD)No.1836 of 2022

Gopinath @ Gopi

.. Petitioner /Detenu

Vs.

1.The Additional Chief Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 600 009.

2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Madurai District,
Madurai.

3.The Superintendent of Prison,
Madurai Central Prison,
Madurai District.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, calling for the entire records, connected with the detention order of the Respondent No.2 in Detention Order B.C.D.F.G.I.S.S.V.No.56/2022 dated 17.08.2022 and quash the same and



HCP(MD)No.1836 of 2022

to direct the respondents to produce the body or person of the detenu by name Gopinath @ Gopi, son of Muthu, aged about 24 years, now confining as "Drug Offender" at Madurai Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Prakash

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

(Order of the Court was made by M.S.RAMESH,J.)

The petitioner is the detenu viz., Gopinath @ Gopi, aged about 24 years, S/o.Muthu. The detenu has been detained by the second respondent by his order in B.C.D.F.G.I.S.S.S.V.No.56/2022 dated 17.08.2022 holding him 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.

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.



HCP(MD)No.1836 of 2022

3. Though several grounds have been raised in the Habeas Corpus Petition, the learned counsel appearing for the petitioner would mainly focus his argument on the ground that the detaining authority has relied upon the order passed in CrI.M.P.No.1257/2022 dated 02.08.2022 and came to the conclusion that in a similar case bail has been granted and that there is likelihood of the detenu released on bail. The learned counsel submitted that the detaining authority was aware of the fact that the detenu filed bail application in the ground case and the same was dismissed. However, he came to the conclusion that there is every possibility of the detenu coming out on bail by filing another bail application. The learned counsel for the petitioner therefore submitted that the order relied upon by the detaining authority is not similar and there is non application of mind on the part of the detaining authority.

4. The learned Additional Public Prosecutor has not filed his counter. However, he strongly opposed the Habeas Corpus Petition.

5. On carefully going through the detention order, it is seen that in the order that was relied upon by the detaining authority in



HCP(MD)No.1836 of 2022

CrI.M.P.No.1257/2022 dated 02.08.2022, since there was no similar case pending against the accused therein, bail was granted. However, in the present case, there are two adverse cases against the petitioner. Hence, the order that was relied upon by the detaining authority cannot be considered to be an order passed in a similar case.

6. In view of the above, the detention order suffers from non application of mind and the same is liable to be interfered with by this Court. The impugned detention order is, therefore, liable to be quashed.

7. 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.56/2022 dated 17.08.2022 passed by the second respondent is set aside. The detenu, viz., Gopinath @ Gopi, S/o.Muthu, aged about 24 years, is directed to be released forthwith unless his detention is required in connection with any other case.

(M.S.R.,J.) (M.N.K.,J.)
06.07.2023

NCC : Yes / No
Index : Yes / No
Lm



HCP(MD)No.1836 of 2022

To

WEB COPY

1. The Additional Chief Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 600 009.
2. The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Madurai District,
Madurai.
3. The Superintendent of Prison,
Madurai Central Prison,
Madurai District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



HCP(MD)No.1836 of 2022

M.S.RAMESH,J.
and
M.NIRMAL KUMAR,J.

Lm

H.C.P.(MD)No.1836 of 2022

06.07.2023