



HCP(MD)No.1935 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 12.07.2023

CORAM

THE HON'BLE MR JUSTICE M.S.RAMESH

AND

THE HON'BLE MR JUSTICE M.NIRMAL KUMAR

H.C.P.(MD)No.1935 of 2022

Rameeja Beevi

.. Petitioner / mother of the detenu

Vs.

1.The Additional Chief Secretary to the Government
Home Prohibition and Excise Department,
Secretariat, Chennai-600 009.

2.The Commissioner of Police,
Tiruchirappalli City,
Tiruchirappalli.

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

.. Respondents



HCP(MD)No.1935 of 2022

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the entire records, pertaining to the impugned detention order passed by the second respondent made in his proceedings in C.No.137/Detention/C.P.O/TC/2022 dated 23.09.2022 in detaining the detenue under Section 2(e) of the Tamil Nadu Act 14 of 1982 as a Drug Offender and quash the same and direct the respondents to produce the detenu namely, Mohamed Asarudeen, S/o.Sahul Hameed, Male, aged about 32 years, who is detained in Central Prison, Tiruchirappalli, before this Court and set him at liberty.

For Petitioner : Mr.K.M.Karunakaran

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

The petitioner is mother of the detenu viz., Mohamed Asarudeen, S/o.Sahul Hameed, aged about 32 years. The detenu has been detained by the second respondent by his order in C.No. 121/Detention/C.P.O/TC/2022 dated 31.08.2022 holding him to be a "Drug



HCP(MD)No.1935 of 2022

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.

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.1661/2018 dated 13.08.2018 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 is pending. 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.



HCP(MD)No.1935 of 2022

WEB COPY

4. The learned Additional Public Prosecutor strongly opposed the Habeas Corpus Petition by filing his counter.

5. On carefully going through the detention order, it is seen that in the order that was relied upon by the detaining authority in CrI.M.P.No. 1661/2018 dated 13.08.2018, the accused therein was enlarged on bail on the ground that there was no objection by the prosecution. 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 C.No.137/Detention/C.P.O/TC/2022 dated 23.09.2022 passed by the second respondent is set aside. The detenu, viz., Mohamed Asarudeen, S/o.Sahul Hameed, aged about 32 years, is directed to be



HCP(MD)No.1935 of 2022

released forthwith unless his detention is required in connection with any other case.

(M.S.R.,J.) (M.N.K.,J.)
12.07.2023

Internet : Yes
Intex : Yes / No
NCC : Yes / No

RM/RR



HCP(MD)No.1935 of 2022

To
WEB COPY

- 1.The Additional Chief Secretary to the Government
Home Prohibition and Excise Department,
Secretariat, Chennai-600 009.
- 2.The Commissioner of Police,
Tiruchirappalli City,
Tiruchirappalli.
- 3.The Superintendent of Prison,
Central Prison,
Tiruchirappalli.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



HCP(MD)No.1935 of 2022

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

RM/RR

H.C.P.(MD)No.1935 of 2022

a

12.07.2023