



HCP(MD)No.2102 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 11.07.2023

CORAM

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

H.C.P.(MD)No.2102 of 2022

V.Krithika

.. Petitioner /Wife of Detenu

Vs.

1.The Principal Secretary to Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat,
Fort St.George,
Chennai – 600 009.

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

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

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, calling for the records pertaining to the impugned detention order in C.No.124/Detention/C.P.O/T.C/2022 dated



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06.09.2022 passed by the second respondent is illegal and set aside the same by setting the detenu by name Sudhakar, S/o.Sesu Irudayam, aged 36 years and set him at liberty, now detained at Central Prison, Trichy, Trichy District.

For Petitioner : Mr.G.Balumahendran

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

The petitioner is the wife of the detenu viz., Sudhakar, aged about 36 years, S/o.Sesu Irudayam. The detenu has been detained by the second respondent by his order in C.No.124/Detention/C.P.O/T.C/2022 dated 06.09.2022 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.



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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, relying upon the order passed in Cr.M.P.No.1733/2021 dated 28.12.2022, came to the conclusion that in a similar case bail has been granted to the same accused and that there is every likelihood of the detenu being 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. The learned counsel, 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 and hence, on this ground, the order of detention is to be interfered with.

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



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5. In the detention order, the detaining authority had stated that the detenu had originally filed a bail petition in Cr.M.P.No.2029/2022 before the Special Court for Essential Commodities and Narcotic Drugs Substances Act Cases, Pudukottai and the same was dismissed on 03.09.2022. While recording so, a reference has been made to a similar case in Crime No.1117/2021, wherein, the detenu was earlier granted bail in Cr.M.P. No.1733/2021 dated 28.12.2022. A perusal of the earlier bail order would reveal that while granting bail, there is no reference to any previous case. However, admittedly, the detenu is involved in two previous cases and therefore, the reference to the bail being granted in Crime No.1117/2021 cannot be termed to be a similar one and consequently, the subjective satisfaction arrived at by the detaining authority is under question and therefore, the order itself cannot be sustained and the same is liable to be interfered with by this Court.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in C.No.124/Detention/C.P.O/T.C/2022 dated 06.09.2022 passed by the second respondent is set aside. The detenu, viz., Sudhakar,



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S/o.Sesu Irudayam, aged about 36 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.)
11.07.2023

NCC : Yes / No
Index : Yes / No
Lm/mbi

To

- 1.The Principal Secretary to Government of Tamil Nadu,
Home, Prohibition and Excise Department,
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- 2.The Commissioner of Police,
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Trichy.
- 3.The Superintendent of Prison,
Central Prison,
Trichy,
Trichy District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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and
M.NIRMAL KUMAR,J.

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