



H.C.P(MD)No.1 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 19.07.2023

CORAM :

THE HONOURABLE MR JUSTICE M.S.RAMESH
AND
THE HONOURABLE MR JUSTICE M.NIRMAL KUMAR

H.C.P(MD)No.1 of 2023

Mariyammal

.. Petitioner

vs.

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

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

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

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India praying to issue a writ of habeas corpus calling for the records in pursuant to the proceedings of the second respondent in Detention Order in M.H.S.No.



For Petitioner : Mr.K.Sathish Kumar
for Mrs.M.Anantha Devi

For respondents : Mr.A.Thiruvadi Kumar,
Additional Public Prosecutor

[Order of the Court was made by M.S.RAMESH, J.]

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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.3711/2021 dated 24.06.2021 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. The learned counsel for the petitioner 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 would submit that on completion of investigation, charge sheet has been filed in S.C.No.182 of



2023 on the file of the Frast Track Court, Tenkasi and the same is pending disposal.

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. 3711/2021 dated 24.06.2021, the accused therein was enlarged on bail taking into consideration the pandemic situation that was prevailing at that relevant point of time. However, at present, there is no pandemic situation. 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.

7. In the result, the Habeas Corpus Petition is allowed and the order of detention in M.H.S.No.96/2022 dated 01.11.2022 passed by the second respondent is set aside. The detenu, viz., Kadalmani @ Kadarkarai,



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S/o.Arunachalam, aged 46 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.)
19.07.2023

NCC : Yes/No
Index : Yes/No
Speaking/Non-speaking order

mbi

To

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



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