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H.C.P.(MD)NO.1235 OF 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.11.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE MS.JUSTICE R. POORNIMA

H.C.P.(MD)No.1235 of 2024

Muthupetchi

... Petitioner /
Mother of the detenu

Vs.

1. The State of Tamil Nadu,
Rep. By Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Fort St. George, Chennai – 9.
2. The District Magistrate and
District Collector,
Theni District,
Theni.
3. The Superintendent,
Special Prison for Women,
Madurai.
4. The Inspector of Police,
Thevaram police station,
Theni District.

... Respondents

Prayer: Habeas Corpus petition is filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the records relating to the detention order passed by the second respondent in



detention order on 18.03.2024 in Detention Order No.15/2024 and to quash the same and direct the respondents to produce the body or her daughter of the detenu Kavitha, W/o.Murugan(aged 39 years) before this Court and set her at liberty now confined at Special Prison for Women, Madurai.

For Petitioner : Mr.D.Rameshkumar
For Respondents : Mr.T.Senthil Kumar,
Additional Public Prosecutor.

* * *

ORDER

(Order of the Court was delivered by G.R.SWAMINATHAN, J.)

Heard both sides.

2. The petitioner is the mother of the detenu. The petitioner's daughter Kavitha was detained as drug offender vide detention order dated 18.03.2024 passed by the District Collector, Theni District. Challenging the same, this Habeas Corpus petition has been filed.

3. The learned Additional Public Prosecutor would submit that the petitioner's daughter was rightly branded as Drug Offender since she was involved in as many as five cases arising under the NDPS Act. The ground case was registered against the petitioner on 12.02.2024 on the



file of Theni police station. The petitioner's daughter was found in possession of 2 Kgs. of Ganja (intermediate quantity). However, one adverse case involving commercial quantity in Crime No.16 of 2022 was registered against one Palpandi on 05.02.2022 on the file of NIB-CID Coimbatore police station and in the said case, Kavitha was also implicated as second accused. Absconding charge sheet was filed on 09.06.2022.

4. It is well settled that in cases involving commercial quantity, the Court granting bail will have to bear in mind the parameters and stipulations laid down under Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985. Therefore, grant of bail will not be a matter of course. The detaining authority in her detention order has not set out as to how she was satisfied with the imminent possibility of release on bail for Kavitha. We therefore hold that there has been non-application of mind as far as this aspect is concerned. The impugned order is set aside. This Habeas Corpus petition is allowed. The detenue shall be set at liberty unless her detention is otherwise warranted by law.

(G.R.SWAMINATHAN, J.) & (R. POORNIMA, J.)

18th November 2024

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

PMU



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To:

1. The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Fort St. George, Chennai – 9.
2. The District Magistrate and
District Collector,
Theni District,
Theni.
3. The Superintendent,
Special Prison for Women,
Madurai.
4. The Inspector of Police,
Thevaram police station,
Theni District.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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