



HCP No.450 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.12.2022

Coram

**THE HONOURABLE MR. JUSTICE P.N.PRAKASH
and
THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH**

H.C.P.No.450 of 2022

A.Lakshmi
M/o.Nandha @ Nadhakumar

... Petitioner

Vs.

1.The State of Tamil Nadu,
represented by the
Secretary to the Government,
Prohibition & Excise Department,
Fort St.George, Chennai - 600 009.

2.The Commissioner of Police,
Greater Chennai City,
Vepery, Chennai - 600 007.

3.The Inspector of Police,
J-5 Shastri Nagar Police Station,
Chennai - 600 066.

4.The Superintendent of Prison,
Central Prison, Puzhal,
Chennai.

... Respondents



HCP No.450 of 2022

Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus calling for the records pertaining to Memo No.388/BCDFGISSSV/2021 dated 16.12.2021 on the file of the second respondent herein and set aside the same and direct the respondents herein to produce the petitioner's son Nandha @ Nandhakumar S/o.Aanaikutty, aged 22 years, now confined at Central Prison, Puzhal, Chennai, before this Court and set him at liberty.

For Petitioner : Mr.U.Kathiravan
For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

[Made by **N.ANAND VENKATESH, J.**]

The petitioner is the mother of the detenu, Nandha @ Nandhakumar S/o.Aanaikutty, aged 22 years. The detenu has been detained by the second respondent by his order in No.388/BCDFGISSSV/2021 dated 16.12.2021, holding him to be a "Goonda", as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.



HCP No.450 of 2022

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. The main ground that has been raised by the learned counsel for the petitioner is that the detaining authority was aware of the fact that the detenu has not moved any bail application and in spite of the same, the detaining authority had come to the conclusion that there is likelihood of the detenu coming out on bail by relying upon an order passed in CrI.M.P.No.21605/2019. Learned counsel submitted that the order relied upon by the detaining authority is not a similar case. Hence, the detention order suffers from non-application of mind.

4. We have carefully gone through the order passed in CrI.M.P.No.21605/2019. In that case, the accused therein did not have any previous case and he had already suffered incarceration for 43 days. In the present case, the detenu had admittedly five adverse cases against him. Hence, the order relied upon by the detaining authority cannot be held to be a similar case and hence, it reflects non-application of mind.



HCP No.450 of 2022

In the result, the Habeas Corpus Petition is allowed and the order of detention in No.388/BCDFGISSSV/2021 dated 16.12.2021, passed by the second respondent is set aside. The detenu, viz., Nandha @ Nandhakumar S/o.Aanaikutty, aged 22 years, is directed to be released forthwith unless his detention is required in connection with any other case.

[PNP, J.] [NAV, J.]
07.12.2022

Index: Yes/No
gm

To

- 1.The Secretary to the Government,
Prohibition & Excise Department,
Fort St.George, Chennai - 600 009.
- 2.The Commissioner of Police,
Greater Chennai City,
Vepery, Chennai - 600 007.
- 3.The Inspector of Police,
J-5 Shastri Nagar Police Station,
Chennai - 600 066.
- 4.The Superintendent of Prison,
Central Prison, Puzhal,
Chennai.



HCP No.450 of 2022

5. The Joint Secretary to Government of Tamil Nadu,
Public, Law and Order Department,
Secretariat, Chennai – 9.

6. The Public Prosecutor,
High Court, Madras.



WEB COPY



HCP No.450 of 2022

P.N.PRAKASH, J.
and
N.ANAND VENKATESH, J.

gm

H.C.P.No.450 of 2022

07.12.2022