



WEB COPY



HCP No.570 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2022

Coram

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

H.C.P.No.570 of 2022

S.Ravi
S/o.Sengeni

... Petitioner

Vs.

1.The State of Tamil Nadu,
represented by its
Secretary to Government,
Prohibition and Excise Department, (Home),
Secretariat, Chennai - 600 009.

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

3.The Superintendent of Prison,
Central Prison, Puzhal,
Chennai - 600 066.

4.The Inspector of Police,
E-1 Mylapore Police Station,
Chennai.

... Respondents



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Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus calling for the records relating to the detenu's detention order passed by the second respondent in BCDFGISSSV No.34/2022 dated 08.03.2022 and set aside the same and produce the detenu Santhosh @ Mandai Santhosh S/o.Shanmugampillai, aged 25 years, now detained at Central Prison, Puzhal, before this Court and set him at liberty.

For Petitioner : Mr.S.Balasubramaniam
For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

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

The petitioner is the cousin of the detenu, Santhosh @ Mandai Santhosh S/o.Shanmugampillai, aged 25 years. The detenu has been detained by the second respondent by his order in BCDFGISSSV No.34/2022 dated 08.03.2022, 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.



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2. We have heard learned counsel for the petitioner and learned Additional Public Prosecutor for the respondents. We have also perused the records produced by the Detaining Authority.

3. The learned counsel for the petitioner submitted that the detaining authority after being aware of the fact that the detenu has not moved any bail application, 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.19799/2018. 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.19799/2018, which was relied upon by the detaining authority to come to the conclusion that that there is likelihood of the detenu coming out on bail. In the said order, no serious objections were raised by the CPP for granting bail to the accused therein. That apart, two earlier cases were found to be very old cases and the Court also took into consideration that



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major portion of the investigation was completed and the accused therein suffered incarceration for sufficient number of days. 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.

In the result, the Habeas Corpus Petition is allowed and the order of detention in BCDFGISSSV No.34/2022 dated 08.03.2022, passed by the second respondent is set aside. The detenu, viz., Santhosh @ Mandai Santhosh S/o.Shanmugampillai, aged 25 years, is directed to be released forthwith unless his detention is required in connection with any other case.

[PNP, J.] [NAV, J.]
19.12.2022

Index: Yes/No
gm

To

- 1.The Secretary to Government,
Prohibition and Excise Department, (Home),
Secretariat, Chennai - 600 009.
- 2.The Commissioner of Police,
Chennai City, Vepery,
Chennai - 600 007.

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3.The Superintendent of Prison,
Central Prison, Puzhal,
Chennai - 600 066.

4.The Inspector of Police,
E-1 Mylapore Police Station,
Chennai.

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

6.The Public Prosecutor,
High Court, Madras.



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