



WEB COPY



H.C.P.No.642 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.11.2022

Coram

The Honourable Mr. Justice **P.N.PRAKASH**
and
The Honourable Mr. Justice **G.CHANDRASEKHARAN**

H.C.P.No.642 of 2022

Manoj Kumar

.. Petitioner

Vs

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

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

3.The Inspector of Police,
J-6, Thiruvanmiyur Police Station,
Chennai.

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

.. Respondents



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Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the records in BCDFGISSSV No.19/2022 dated 08.02.2022 on the file of the second respondent herein and set aside the same as illegal and produce the detenu Manojkumar, male, aged about 22 years, S/o.Lakshminarayanan, who is confined at the Central Prison, Puzhal, Chennai, before this Court and set him at liberty.

For Petitioner : Mr.Ilayaraja Kandasamy

For Respondents : Mr.R.Muniyapparaj
Addl. Public Prosecutor

ORDER

(Made by *P.N.PRAKASH, J.*)

The petitioner is the detenu Manojkumar, male, aged about 22 years, S/o.Lakshminarayanan. The detenu has been detained by the second respondent by his order in BCDFGISSSV No.19/2022 dated 08.02.2022, 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.

2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for



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the respondents. We have also perused the records produced by the Detaining Authority.

3. Though many grounds have been raised in the petition, learned counsel appearing for the petitioner, confines his argument only in respect of non-application of mind on the part of the detaining authority in passing the order of detention. According to the learned counsel appearing for the petitioner, in paragraph no.4 of the grounds of detention, the detaining authority has relied upon the order dated 18.10.2019 passed in CrI.M.P.No.21605 of 2019 on the file of the Principal Sessions Court, Chennai, granting bail to the accused therein, in order to show that in similar matters bail will be granted by the Court, but, the said case is no way similarly placed.

4. The learned Additional Public Prosecutor strongly opposed the habeas corpus petition by filing his counter.

5. As evidenced from the booklet furnished to us and on perusal of the said order shows that bail was granted to the accused therein, as the learned Additional Public Prosecutor did not raise any serious objections and there was no previous case against the



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petitioner therein, whereas, there are three previous cases against the detenu in this case. Therefore, the reliance on the said bail order to conclude that the detenu herein would also be similarly released on bail may not be proper, which clearly shows non-application of mind on the part of detaining authority. The impugned detention order is therefore liable to be quashed.

6. We are interfering with the order of detention on the aforesaid ground only in the peculiar facts and circumstances of the case, in that, the detenu is in incarceration since 08.02.2022.

In the result, the Habeas Corpus Petition is allowed and the order of detention in BCDFGISSSV No.19/2022 dated 08.02.2022, passed by the second respondent is set aside. The detenu, viz. Manojkumar, male, aged about 22 years, S/o.Lakshminarayanan, is directed to be released forthwith unless his detention is required in connection with any other case.

(P.N.P., J.) (G.C.S., J.)
25.11.2022

Index: Yes/No
nsd



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To

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- 2.The Commissioner of Police,
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Commissioner Office,
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- 3.The Inspector of Police,
J-6, Thiruvanmiyur Police Station,
Chennai.
- 4.The Superintendent of Prison,
Central Prison – II,
Puzhal,
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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P.N.PRAKASH, J.
and
G.CHANDRASEKHARAN, J.

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