



WEB COPY



HCP No.665 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2022

Coram

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

H.C.P.No.665 of 2022

Sivarani
W/o.Murugan

... Petitioner

Vs.

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

2.The Commissioner of Police/Detaining Authority,
Tiruppur City.

3.The Superintendent of Prison,
Central Prison - Coimbatore,
Coimbatore.

4.State represented by
The Inspector of Police,
All Women Police Station,
Tiruppur North,
Tiruppur City.

... 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 pertaining to the order made in C.No.21/S.O./IS/Tiruppur City/2022 dated 31.03.2022 in detaining the detenu under the Tamil Nadu Act 14/1982 as a Goonda and quash the same and direct the respondents to produce the detenu, namely, Murugan S/o.Sanjeevan, aged 36 years, who is detained at the Central Prison, Coimbatore, before this Court and set him at liberty.

For Petitioner : Mr.J.Franklin

For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

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

The petitioner is the wife of the detenu, Murugan S/o.Sanjeevan, aged 36 years. The detenu has been detained by the second respondent by his order in C.No.21/S.O./IS/Tiruppur City/2022 dated 31.03.2022, holding him to be a "Sexual Offender", as contemplated under Section 2(ggg) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.



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2. The learned counsel for the petitioner submitted 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.348/2019. 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.

3. The learned Additional Public Prosecutor appearing for the State submitted that the detenu was arrested on 24.02.2022 and remanded to judicial custody. The investigation was completed and final report was filed on 06.04.2022 before the Mahila Court, Tiruppur and the same was taken on file in S.C.No.49 of 2022. The case is now at the stage of examination of the Investigation Officer.

4. We have carefully gone through the order passed in CrI.M.P.No.348/2019, which was relied upon by the detaining authority to



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come to the conclusion that that there is likelihood of the detenu coming out on bail. In CrI.M.P.No.348/2019, bail was granted since the final report was not filed within the statutory period and hence, the Court, in exercise of Section 167(2) Cr.P.C., granted mandatory bail. The order relied upon by the detaining authority cannot be held to be a similar case since the detenu, in this case, did not even file a bail petition and the final report has also been filed on time by the prosecution and hence, it reflects non-application of mind.

In the result, the Habeas Corpus Petition is allowed and the order of detention in C.No.21/S.O./IS/Tiruppur City/2022 dated 31.03.2022, passed by the second respondent is set aside. The detenu, viz., Murugan S/o.Sanjeevan, aged 36 years, is directed to be released forthwith unless his detention is required in connection with any other case.

[PNP, J.] [NAV, J.]
14.12.2022

Index: Yes/No
gm



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To

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1. The Secretary to the Government,
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2. The Commissioner of Police/Detaining Authority,
Tiruppur City.
3. The Superintendent of Prison,
Central Prison - Coimbatore,
Coimbatore.
4. The Inspector of Police,
All Women Police Station,
Tiruppur North,
Tiruppur City.
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
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