



WEB COPY



H.C.P.No.793 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.10.2022

Coram

The Honourable Mr. Justice **P.N.PRAKASH**
and
The Honourable Mr. Justice **RMT.TEEKAA RAMAN**

H.C.P.No.793 of 2022

Aysha

.. Petitioner

Vs

- 1.The State represented by its
Additional Chief Secretary to Government,
Home, Prohibition and Excise (XVI) Department,
Fort St. George, Secretariat,
Chennai 600009.
- 2.The Commissioner of Police,
Office of the Commissioner of Police,
Chennai City.
- 3.The Superintendent of Prison,
Central Prison at Coimbatore,
Gandhipuram, Coimbatore.
- 4.The Inspector of Police,
P-5, M.K.B. Nagar Police Station,
Chennai City.

.. Respondents

Petition filed under Article 226 of the Constitution of India to
issue a writ of Habeas Corpus calling for the records in detention order
in No.64/BCDFGISSSV/2022 dated 11.04.2022 on the file of the



H.C.P.No.793 of 2022

second respondent and set aside the same and direct the respondents herein to produce the body of the petitioner's husband/detenu Santhosh, S/o.Mani, aged about 31 years, now confined in the Central Prison at Coimbatore, before this Court and set him at liberty.

For Petitioner : Mr.Mohamed Saifulla
for Ms.R.Subhadra Devi

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

ORDER

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

The petitioner is the wife of the detenu Santhosh, S/o.Mani, aged about 31 years. The detenu has been detained by the second respondent by his order in No.64/BCDFGISSSV/2022 dated 11.04.2022, 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 the respondents. We have also perused the records produced by the Detaining Authority.



H.C.P.No.793 of 2022

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 the grounds of detention, the detaining authority has relied upon the case of P-5, M.K.B. Nagar police Station Crime No.1033 of 2021 as the adverse case and in the said case, investigation was completed and the detenu was charged for the offences under Section 147, 148, 149, 341, 294(b), 302 and 506 (I) r/w 109 IPC in S.C.No.355 of 2021 on the file of the XX Additional Sessions Court, Chennai, whereas, in the detention order, the detaining authority has stated that the said case is pending before the X Metropolitan Magistrate, Egmore, Chennai, where, only magisterial offences will be heard. Therefore, it is stated that the detenu was deprived of making an effective representation in the absence of furnishing of full particulars by the detaining authority. Hence, it is stated that the Detaining Authority has passed the impugned detention order in total non-application of mind.

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



H.C.P.No.793 of 2022

5. As evidenced from the booklet furnished to us, it is seen that the detaining authority has relied upon the case of P-5, M.K.B. Nagar police Station Crime No.1033 of 2021 as the adverse case and in the said case, investigation was completed and the detenu was charged for the offences under Sections 147, 148, 149, 341, 294(b), 302 and 506 (I) r/w 109 IPC in S.C.No.355 of 2021 on the file of the XX Additional Sessions Court, Chennai, whereas, in the detention order, the detaining authority has stated that the said case is pending before the X Metropolitan Magistrate, Egmore, Chennai, which clearly shows non-application of mind on the part of detaining authority. The impugned detention order is therefore liable to be quashed.

In the result, the Habeas Corpus Petition is allowed and the order of detention in No.64/BCDFGISSSV/2022 dated 11.04.2022, passed by the second respondent is set aside. The detenu, viz. Santhosh, S/o.Mani, aged about 31 years, is directed to be released forthwith unless his detention is required in connection with any other case.

(P.N.P., J.) (TKRJ)
28.10.2022

Index: Yes/No
nsd

Page 4 of 6



H.C.P.No.793 of 2022

WEB COPY

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- 3.The Superintendent of Prison,
Central Prison at Coimbatore,
Gandhipuram, Coimbatore.
- 4.The Inspector of Police,
P-5, M.K.B. Nagar Police Station,
Chennai 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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H.C.P.No.793 of 2022

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H.C.P.No.793 of 2022

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