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H.C.P.No.799 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2022

Coram

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

H.C.P.No.799 of 2022

Meenakshi

.. Petitioner

Vs

1.State of Tamil Nadu represented by
its Additional Chief 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-1, Saidapet 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.78/2022 dated 19.04.2022 on the file of the second respondent herein and set aside the same as illegal and produce the detenu Sarath @ Sarathkumar, son of Sathya, aged about 27 years, 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 wife of the detenu Sarath @ Sarathkumar, son of Sathya, aged about 27 years. The detenu has been detained by the second respondent by his order in BCDFGISSSV No.78/2022 dated 19.04.2022, 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.



H.C.P.No.799 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. Though several grounds have been raised, learned counsel for the petitioner mainly focused his arguments on the ground that the similar case particulars that the detenu would likely to be released on bail in respect of the offences covered in Crime No.57 of 2022 has not been furnished to the detenu, which caused great prejudice to the detenu and he has been prevented from making an effective representation for consideration of the authorities concerned. Therefore, the impugned order of detention is vitiated in law.

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

5. A perusal of the booklet would go to show that the detaining authority has relied upon the case in J-1, Saidapet Police Station Crime No.57 of 2022 for the offences under Sections 353 and



H.C.P.No.799 of 2022

506(II) IPC. However, the similar case particulars that the detenu would likely to be released on bail in respect of the offences covered in Crime No.57 of 2022 has not been enclosed in the booklet furnished to the detenu. Therefore, non-furnishing of the above materials would obviously deprive of his opportunity to make effective representation and hence, we are of the opinion that the detention order is liable to be quashed on this ground.

In the result, the Habeas Corpus Petition is allowed and the order of detention in BCDFGISSSV No.78/2022 dated 19.04.2022, passed by the second respondent is set aside. The detenu, viz. Sarath @ Sarathkumar, son of Sathya, aged about 27 years, is directed to be released forthwith unless his detention is required in connection with any other case.

(P.N.P., J.) (TKRJ)
15.11.2022

Index: Yes/No
nsd



H.C.P.No.799 of 2022

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To

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Chennai – 600 007.
- 3.The Inspector of Police,
J-1, Saidapet 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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H.C.P.No.799 of 2022

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