



H.C.P.No.800 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2022

Coram

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

H.C.P.No.800 of 2022

Sasikala

.. Petitioner

Vs

- 1.The 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, Greate Chennai,
Commissioner Office,
Vepery,
Chennai – 600 007.
- 3.The Inspector of Police,
E-5, Foreshore Estate 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.77/2022 dated 19.04.2022 on the file of the second respondent herein and set aside the same as illegal and produce the detenu Venkatesh, S/o.Arjunan aged about 25 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 Venkatesh, S/o.Arjunan aged about 25 years. The detenu has been detained by the second respondent by his order in BCDFGISSSV No.77/2022 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.

2. We have heard the learned counsel appearing for the



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petitioner and the learned Additional Public Prosecutor appearing for 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 stated as follows:

".....In a similar case registered at P-3 Vyasarpadi Police Station Cr.No.694/2018 under Sections 294(b), 427, 324, 307 and 506(II) IPC bail was granted by the Court of Principal Sessions Judge, Chennai, in Crl.M.P.No.19799/2018."

However, in support of the aforesaid assertion, the detaining authority has kept only the bail petition of the accused in Crl.M.P.No.19799 of 2018 and not the order, as averred above. 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.



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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, it is seen that in support of the aforesaid assertion, the detaining authority has kept only the bail petition of the accused in CrI.M.P.No.19799 of 2018 and not the order, as averred above, 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 BCDFGISSSV No.77/2022 dated 19.04.2022, passed by the second respondent is set aside. The detenu, viz. Venkatesh, S/o.Arjunan aged about 25 years, is directed to be released forthwith unless his detention is required in connection with any other case.

(P.N.P., J.) (TKRJ)
02.11.2022

Index: Yes/No
nsd



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WEB COPY

To

- 1.The Additional Chief Secretary to Government,
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- 2.The Commissioner of Police,
Chennai City Police, Greate Chennai,
Commissioner Office, Vepery,
Chennai - 600 007.
- 3.The Inspector of Police,
E-5, Foreshore Estate 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
RMT.TEEKAA RAMAN, J.

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