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**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED: 19.12.2022**

**Coram**

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

**H.C.P.No.854 of 2022**

Ananthi
W/o.Chinnathambi .. Petitioner

Vs.

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.

2.The Commissioner of Police,
Greater Chennai,
Office of Commissioner of Police (Goondas Section)
Vepery, Chennai - 600 007.

3.The Superintendent of Prison,
Central Prison - II, Puzhal,
Chennai - 600 066.

4.The Inspector of Police,
V-1, Villivakkam Police Station,
Chennai - 600 049. .. Respondents



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Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus calling for the entire records connected with the detention order of the 2nd respondent in No.73/BCDFGISSSV/2022 dated 13.04.2022 and quash the same and direct the respondents to produce the body and person of detenu namely Uthaya @ Udhayakumar S/o.Chinnathambi, aged about 30 years detained in Central Prison, Puzhal, Chennai, before this Court and set him at liberty forthwith.

For Petitioner : Mr.B.M.Santhanam

For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor

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**ORDER**

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

The petitioner is the mother of the detenu *viz.*, Udhaya @ Udhayakumar S/o.Chinnathambi, aged about 30 years. The detenu has been detained by the second respondent by his order in No.73/BCDFGISSSV/2022 dated 13.04.2022, 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.



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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. The main ground that was urged by the learned counsel for the appellant is that detaining authority after being aware of the fact that the detenu has not moved any bail application, came to a conclusion that there is likelihood of his coming out on bail by relying upon the order passed in Crl.M.P.No.10485 of 2021 by the Principal Sessions Judge, Chennai.

4. The learned counsel for the petitioner submitted that the order that was relied upon by the detaining authority is not a similar case. Hence, the order of detention suffers from non application of mind.

5. We have carefully gone through the order passed by the learned Principal Sessions Judge, Chennai, in Crl.M.P.No.10485 of 2022. That was a case where the bail was granted to the accused therein on the ground that he had already suffered incarceration for more than 75 days and there was no previous case reported



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against him and also had taken into consideration the pandemic situation that was prevailing at that point of time. In the case on hand, a bail application was not even moved by the detenu and hence, the order that was relied upon by the detaining authority cannot be considered to be a similar case. Thus the impugned detention order is liable to be set aside on this ground.

In the result, the Habeas Corpus Petition is allowed and the order of detention in No.73/BCDFGISSSV/2022 dated 13.04.2022, passed by the second respondent is set aside. The detenu, viz.,Udhaya @ Udhayakumar S/o.Chinnathambi, aged about 30 years, is directed to be released forthwith unless his detention is required in connection with any other case.

**[P.N.P., J] [N.A.V., J]**
**19.12.2022**

Index: Yes/No
gm/ssr



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3.The Superintendent of Prison,
Central Prison - II, Puzhal,
Chennai - 600 066.

4.The Inspector of Police,
V-1, Villivakkam Police Station,
Chennai - 600 049.

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
**N.ANAND VENKATESH, J**

gm/ssr

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