



HCP No.1004 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.12.2022

Coram

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

H.C.P.No.1004 of 2022

Arulselvi
W/o.Selvaraj

.. Petitioner

Vs.

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

2.The Commissioner of Police,
O/o.The Commissioner Office,
Vepery, Chennai - 07.

3.The Superintendent of Prison,
Puzhal Central Prison,
Chennai - 66.

4.The Inspector of Police,
J-11 Kannagi Nagar Police Station,
Kannagi Nagar, Chennai.

.. Respondents



HCP No.1004 of 2022

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus calling for the records of the detention order made in Detention Order dated 18.04.2022 in Memo No.75/BCDFGISSSV/2022 passed by the second respondent herein viz., the Commissioner of Police, Office of the Commissioner of Police, (Goondas Section), Chennai and set aside the same and direct the respondents to produce the detenu before this Court and set the detenu Selvakumar S/o.Selvaraj, aged about 21 years, at liberty forthwith.

For Petitioner : Mr.S.Madhusudanan
For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

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

The petitioner is the mother of the detenu viz., Selvakumar S/o.Selvaraj, aged about 21 years. The detenu has been detained by the second respondent by his order in Memo No.75/BCDFGISSSV/2022 dated 18.04.2022, 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.



HCP No.1004 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 in the Habeas Corpus Petition, the learned counsel appearing for the petitioner contended mainly that the detaining authority after being aware of the fact that the bail petition filed by the detenu was pending, came to a conclusion that there is a likelihood of the detenu being let out on bail, without any supporting materials. Hence, it was submitted that the detention order suffers from non-application of mind.

4. The learned Additional Public Prosecutor strongly opposed the Habeas Corpus Petition by filing his counter.

5. On carefully going through the detention order, we find that the detaining authority was aware of the fact that no bail application was filed by the detenu, however, the detaining authority came to a conclusion that there is



HCP No.1004 of 2022

a likelihood of the detenu being let out on bail without any supporting materials. This clearly shows non-application of mind on the part of the detaining authority.

In the result, the Habeas Corpus Petition is allowed and the order of detention in Memo No.75/BCDFGISSSV/2022 dated 18.04.2022 passed by the second respondent is set aside. The detenu, viz., Selvakumar S/o.Selvaraj, aged about 21 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]
16.12.2022

Index: Yes/No
gm

To

- 1.The Secretary to the Government,
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HCP No.1004 of 2022

3.The Superintendent of Prison,
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Chennai - 66.

4.The Inspector of Police,
J-11 Kannagi Nagar Police Station,
Kannagi Nagar, 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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HCP No.1004 of 2022

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gm

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