



WEB COPY



HCP No.1013 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.1013 of 2022

Lavanya
W/o.Kannadhasan

.. Petitioner

Vs.

1.Government of Tamil Nadu
represented by its
The Secretary,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.

2.The Commissioner of Police,
Commissioner Office,
Vepery, Chennai.

3.The Superintendent,
Central Prison,
Puzhal, Chennai.

4.The State represented by
The Inspector of Police,
R-9 Valasaravakkam Police Station,
Chennai.

.. 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 records in detention order passed in Memo No.BCDFGISSSV No.74/2022 dated 18.04.2022 on the file of the second respondent herein and quash the same and direct the respondents herein to produce the body of the petitioner's son Kannadasan S/o.Rajagopal, aged 37 years, now confined in Central Prison, Puzhal, Chennai, before this Court and set him at liberty.

For Petitioner : Mr.D.Padmanabhan

For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

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

The petitioner is the wife of the detenu viz., Kannadasan S/o.Rajagopal, aged 37 years. The detenu has been detained by the second respondent by his order in BCDFGISSSV No.74/2022 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.



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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. 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



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the detenu, however, the detaining authority came to a conclusion that there is 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 BCDFGISSSV No.74/2022 dated 18.04.2022 passed by the second respondent is set aside. The detenu, viz., Kannadasan S/o.Rajagopal, aged 37 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,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
- 2.The Commissioner of Police,
Commissioner Office,
Vepery, Chennai.



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3. The Superintendent,
Central Prison,
Puzhal, Chennai.
4. The Inspector of Police,
R-9 Valasaravakkam Police Station,
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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and
N.ANAND VENKATESH, J

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