



WEB COPY



HCP No.895 of 2022

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.895 of 2022

Sahul Hameed
S/o.Abdul Majeed

... Petitioner

Vs.

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

2.The Commissioner of Police/Detaining Authority,
Huzur Road,
Coimbatore City, Coimbatore - 18.

3.The Superintendent of Prison,
Central Prison - Coimbatore,
Coimbatore District.

4.State rep. by its The Inspector of Police,
C-1, Kattoor Police Station,
Coimbatore District.

... Respondents



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Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus to call for the entire records, relating to the petitioner's son detention under Tamil Nadu Act 14 of 1982 vide detention order, dated 19.04.2022 on the file of the second respondent herein made in proceedings Memo C.No.25/G/IS/2022, quash the same as illegal and consequently direct the respondents herein to produce the petitioner's son namely S.Nisharudeen, S/o.Sahul Hameed, aged 23 years before this Court and set the petitioner's son at liberty from detention, now the petitioner's son detained at Central Prison, Coimbatore.

For Petitioner : Mr.W.Camyles Gandhi
For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

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

The petitioner is the father of the detenu, S.Nisharudeen, S/o.Sahul Hameed, aged 23 years, has been detained by the second respondent by his order in C.No.25/G/IS/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 learned counsel for the petitioner and learned Additional Public Prosecutor for the respondents. We have also perused the records produced by the Detaining Authority.

3. Learned counsel for the petitioner submits that Page No.99 in the booklet [arrest intimation in the third adverse case] furnished to the detenu is illegible. Learned counsel further submits that the same adversely has affected the detenu's right of making an effective representation.

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

5. When the documents furnished to the detenu are illegible, opportunity of clear understanding and making effective representation in keeping with Article 22(5) of the Constitution of India on such understanding is lost and the detenu is deprived thereof. This would vitiate the order of detention. For the aforesaid reasons, this Court would allow the present petition.



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In the result, the Habeas Corpus Petition is allowed and the order of detention in C.No.25/G/IS/2022 dated 19.04.2022, passed by the second respondent is set aside. The detenu, viz., S.Nisharudeen, S/o.Sahul Hameed, aged 23 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

To

- 1.The Secretary to Government,
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- 4.The Inspector of Police,
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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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