



WEB COPY



HCP No.903 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.903 of 2022

Mini
W/o.Rajan

.. Petitioner

Vs.

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

2.The Commissioner of Police,
Avadi City,
Chennai.

3.The Inspector of Police,
T-14, Mangadu Police Station, Chennai.

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

.. Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India
praying to issue a Writ of Habeas Corpus to call for the entire records, relating to



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petitioner's husband detention under Tamil Nadu Act 14 of 1982 vide detention order, dated 29.04.2022 on the file of the second respondent herein made in proceedings No.29/BCDFGISSSV/2022 and quash the same as illegal and consequently direct the respondents herein to produce the said petitioner's husband namely Rajan S/o Dass, aged 46 years before this Court and set the petitioner's husband at liberty from detention, now petitioner's husband detained at Central Prison, Puzhal, Chennai - 600 066.

For Petitioner : Mr.C.C.Chellappan
For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

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

The petitioner is the wife of the detenu *viz.*, Rajan S/o Dass, aged 46 years.

The detenu has been detained by the second respondent by his order in No.29/BCDFGISSSV/2022 dated 29.04.2022, 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 petitioner and the learned Additional Public Prosecutor appearing for the respondents. We have also perused the records produced by the Detaining Authority.



3. The learned counsel appearing for the petitioner contended mainly that the detenu has not moved any bail petition in any of the adverse cases and also in the ground case and in spite of the same, the detaining authority had come to a conclusion that there is a likelihood of the detenu coming out on bail by relying up on the order passed in Crl.M.P.No.1759 of 2018. The learned counsel further submitted that the order that was relied upon by the detaining authority is not a similar case. 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. We have carefully perused the order passed in Crl.M.P.No.1759 of 2018. That was a case where there were two previous cases against the accused therein and he was already granted bail in those two cases. That apart, the property that was involved in that case was also recovered and the Court also took into consideration the fact that major portion of the investigation was over and the accused had suffered incarceration for a long time. In the present case, there are



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three adverse cases and one ground case and in none of the cases, the detenu was granted bail. Apart from the same, the detenu did not even move a bail application in the adverse cases or in the ground case. Hence, the order relied upon by the detaining authority cannot be held to be a similar case. 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 No.29/BCDFGISSSV/2022 dated 29.04.2022 passed by the second respondent is set aside. The detenu, viz.,Rajan S/o Dass, aged 46 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,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.



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2. The Commissioner of Police,
Avadi City,
Chennai.

3. The Inspector of Police,
T-14, Mangadu Police Station, Chennai.

4. The Superintendent,
Central Prison, 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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