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HCP No.928 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.928 of 2022

Mrs.V.Alamelu
W/o.Vinoth

.. Petitioner

Vs.

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

2.The Commissioner of Police,
Greater Chennai.
Veppery, Chennai.

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

4.The Inspector of Police,
P-6, Kodungaiyur Police Station,
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 records in connection with



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the order of detention passed by the second respondent dated 07.05.2022 in No.110/BCDFGISSSV/2022 against the petitioner husband Thiru.Vinoth, male aged about 34 years S/o.Nagaraj, who is confined at Central Prison, Puzhal, Chennai and set aside the same and direct the respondents to produce the detenu before the Court and set him at liberty.

For Petitioner : Mr.M.Illiyas
For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

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

The petitioner is the wife of the detenu *viz.*, Vinoth S/o Nagaraj, aged 34 years. The detenu has been detained by the second respondent by his order in No.110/BCDFGISSSV/2022 dated 07.05.2022, holding him to be a "Drug Offender", as contemplated under Section 2(e) 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 detaining authority was aware of the fact that the bail petition filed by the detenu in the ground case was dismissed. In spite of the same, the detaining authority came to a conclusion that there is a likelihood of the detenu coming out on bail if any bail petition is filed at future point of time, by relying up on the order passed in CrI.M.P.No.1414 of 2021. The learned counsel further submitted that the bail order that was relied upon by the detaining authority was not even form part of the book that was supplied to the accused.

4. The learned Additional Public Prosecutor strongly opposed the Habeas Corpus Petition.

5. We have carefully went through the book that was given to the detenue. We find that the order copy that is available in the book pertains to an order in CrI.M.P.No.10485 of 2021. This was not the order that was relied up on by the detaining authority and the order relied upon by the detaining authority i.e. CrI.M.P.No.1414 of 2021 does not form part of the paper book. Hence, the detention order suffers from non-application of mind.



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In the result, the Habeas Corpus Petition is allowed and the order of detention in No.110/BCDFGISSSV/2022 dated 07.05.2022 passed by the second respondent is set aside. The detenu, viz.,Vinoth S/o Nagaraj, aged 34 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,
Fort St. George, Chennai - 600 009.
- 2.The Commissioner of Police,
Greater Chennai.
Veppery, Chennai.
- 3.The Superintendent of Police,
Central Prison, Puzhal, Chennai.
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P-6, Kodungaiyur Police Station,
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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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