



WEB COPY



HCP No.942 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.942 of 2022

K.Sudha
W/o.Karthick

.. 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.112/BCDFGISSSV/2022 against the petitioner husband Thiru.Karthick, male aged about 31 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., Karthick S/o Nagaraj, aged 31 years. The detenu has been detained by the second respondent by his order in No.112/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 after being aware of the fact that the bail application filed by the detenu in the ground case was dismissed, came 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.1414 of 2021. 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 went through the order passed in Crl.M.P.No.1414 of 2021. That was a case where, the accused person therein was involved in only one case and the quantity that was seized was 1.200 Kgs. of Ganja. That apart, the Court also took into consideration the period of incarceration that was already suffered by the accused. In the present case, admittedly, there are two adverse cases against the detenu and this was taken into consideration while the bail petition was dismissed. In view of the same, the order that was relied upon by the detaining authority in Crl.M.P.No.1414 of 2021 is not a similar case. Hence, the



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order of detention 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.112/BCDFGIISSSV/2022 dated 07.05.2022 passed by the second respondent is set aside. The detenu, viz., Karthick S/o Nagaraj, aged 31 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.
- 4.The Inspector of Police,
P-6, Kodungaiyur Police Station,



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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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P.N.PRAKASH, J
and
N.ANAND VENKATESH, J

gm/ssr

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