



WEB COPY



H.C.P.No.1007 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2022

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH
AND
THE HONOURABLE Mr.JUSTICE N. ANAND VENKATESH

H.C.P.No.1007 of 2022

Saranya

Petitioner

v

State rep. by

- 1 The Additional Chief Secretary to Government
Home, Prohibition and Excise Department
Fort St. George, Chennai 600 009
- 2 The Commissioner of Police
The Greater Chennai City
Vepery, Chennai 600 007
- 3 The Superintendent of Prison
Central Prison
Coimbatore
- 4 The Inspector of Police
S-7 Madipakkam Police Station
Chennai

Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue
a WRIT OF HABEAS CORPUS calling for the records relating to the detention



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order in BCDFGISSSV No.86/2022 dated 22.04.2022 passed by the 2nd respondent under the Tamil Nadu Act 14 of 1982 and set aside the same and direct the respondents to produce the petitioner's husband Murugesan, aged 31 years, S/o.Velayutham, now confined in the Central Prison, Coimbatore, before this Court and set him at liberty.

For petitioner Mr.A.Elumalai
For respondents Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

[Made by N.ANAND VENKATESH, J.]

The petitioner is the wife of the detenu *viz.*, Murugesan, aged 31 years, S/o.Velayutham. The detenu has been detained by the 2nd respondent by his order dated 22.04.2022 in BCDFGISSSV No.86/2022, 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 main ground that was urged by the learned counsel for the petitioner is that the detaining authority, after being aware of the fact that the bail petition



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filed by the detenu was dismissed and in spite of the same, he had come to the conclusion that there is likelihood of the detenu coming out on bail, by relying upon the orders passed in Crl.M.P.No.10485 of 2021 and Crl.M.P.No.21605 of 2019, which are not similar to the ground case. Hence, the detention order suffers from non-application of mind.

4. We have carefully gone through the orders that were relied upon by the detaining authority, which shows that the detenu was involved in the offences under Sections 341, 294(b), 323, 336, 397, 427 and 506(II) IPC, whereas, the ground case was registered for the offences under Sections 302 and 307 IPC. Therefore, the orders that were relied upon by the detaining authority, cannot be considered to be similar, which reflects non-application of mind.

5. In the result, the Habeas Corpus Petition is allowed and the order of detention in BCDFGISSSV No.86/2022 dated 22.04.2022, passed by the 2nd respondent is set aside. The detenu viz., Murugesan, aged 31 years, S/o.Velayutham, is directed to be released forthwith, unless his detention is required in connection with any other case.

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Issue order copy by 16.12.2022

[P.N.P., J.]

[N.A.V., J.]

15.12.2022



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P.N.PRAKASH, J.

AND

N. ANAND VENKATESH, J.

gya

To

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

2 The Joint Secretary to Government
Public, Law and Order Department
Secretariat, Chennai-9

3 The Commissioner of Police
The Greater Chennai City
Vepery, Chennai 600 007

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4 The Superintendent of Prison
Central Prison
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5 The Inspector of Police
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6 The Public Prosecutor
High Court, Madras

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