



Habeas Corpus Petition No.999 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**

Habeas Corpus Petition No.999 of 2022

P.Palayam
W/o.Pachai

.. Petitioner

Vs.

1. State Rep. By its Chief Secretary to the Govt. of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 600 009.
2. The Commissioner of Police,
Chennai City
Office of the Commissioner of Police,
Vepery, Chennai – 600 007.
3. The Inspector of Police,
D-1, Triplicane Police Station,
Chennai.
4. The Superintendent of Prison,
Central Prison, Puzhal.

...Respondents



Habeas Corpus Petition No.999 of 2022

Habeas Corpus Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus calling for the records in relating to the order of Detention passed by the 2nd respondent dated 23.04.2022 in BCDFGISSSV No.89/2022 against the Detenu Ganapathi, Male aged about 24 years, son of Patchai, who is confined at Central Prison, Puzhal, Chennai and set aside the same and direct the respondents to produce the detenu before this Court.

For Petitioner : Mr.G.Mohanakrishnan

For Respondent : Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

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

The petitioner is the mother of the detenu *viz.*, Ganapathi S/o Patchai, aged 24 years. The detenu has been detained by the second respondent by his order in BCDFGISSSV No.89/2022 dated 23.04.2022, 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 detaining authority was aware of the fact that the detenu has not moved any bail petition in the ground case. However, the detaining authority had come to a conclusion that the detenu will be let out on bail by relying upon the orders passed in CrI.M.P.Nos.18385 & 18431 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 perused the orders passed in CrI.M.P.Nos.18385 & 18431 of 2021. In that case, the Court took into consideration the fact that



the co-accused was granted bail by the High Court and the accused therein had already suffered for more than 80 days and major portion of the investigation was also over. That apart, there is no indication that there were any previous cases against the accused therein. In the present case, there is one adverse case against the detenu and the detenu did not even move a bail application in the ground case. Hence, the order relied upon the detaining authority cannot be considered 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 BCDFGISSSV No.89/2022 dated 23.04.2022 passed by the second respondent is set aside. The detenu, viz., Ganapathi S/o Patchai, aged 24 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



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To

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1. The Chief Secretary to the Govt. of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 600 009.
2. The Commissioner of Police,
Chennai City
Office of the Commissioner of Police,
Vepery, Chennai – 600 007.
3. The Inspector of Police,
D-1, Triplicane Police Station,
Chennai.
4. The Superintendent of Prison,
Central Prison, Puzhal.
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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