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H.C.P.No.1033 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06..12..2022

Coram

The Honourable Mr. Justice **P.N.PRAKASH**
and
The Honourable Mr. Justice **N.ANAND VENKATESH**

Habeas Corpus Petition No.1033 of 2022

M.Sumathi
W/o Sathish

..... Petitioner

-Versus-

- 1.The State of Tamilnadu,
Rep. by its Secretary to Government,
Department of Home, Prohibition and Excise,
Fort St. George, Chennai 600009.
- 2.The Commissioner of Police,
Tambaram City, Tambaram,
Chennai.
- 3.The Superintendent of Prison,
Central Prison,
Puzhal, Chennai 600006.
- 4.The Inspector of Police,
J-10, Chemmanchery Police Station,
Chemmanchery, Chennai.

.... Respondents



H.C.P.No.1033 of 2022

Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus calling for the records relating to the preventing detention order dated 12.04.2022 in Memo No.51/BCDFGISSSV/2022 passed by the 2nd respondent and to set aside the same and consequently, direct the detaining authority to produce the detenu - the husband of the petitioner viz., Sathish, aged 40 years, Son of Annamalai, now confined at Central Puzhal, Chennai, before this court and set him at liberty.

For Petitioner : *Mr.S.Senthilvel for*
Mr.A.E.Ravichanrdan

For Respondents : *Mr.R.Muniyapparaj,*
Additional Public Prosecutor

ORDER

[Order of the Court was made by N.ANAND VENKATESH.J.,]

The petitioner is the wife of the detenu viz., Sathish. The detenu has been detained by the second respondent by his order in Memo No.51/BCDFGISSSV/2022 dated 12.04.2022 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.



H.C.P.No.1033 of 2022

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 appellant is that detaining authority after being aware of the fact that the detenu has not moved any bail application, came to a conclusion that there is likelihood of his coming out of bail by relying upon Crl.M.P.No.10485 of 2021 on the file of the Principal Sessions Judge, Chennai.

4. The learned counsel for the petitioner, therefore, submitted that the order that was relied upon by the detaining authority is not a similar case. Hence, the order of detention suffers non application of mind.

5. We have carefully gone through the order passed by the learned Principal Sessions Judge, Chennai, in Crl.M.P.No.10485 of 2022. That was a case where the bail was granted to the accused therein on the ground that he had already suffered incarceration for more than 75 days and there was no previous case reported against him and also had taken into consideration the pandemic situation that was prevailing at that point of time. In the case on hand, there are no previous cases reported against the detenu and a bail



H.C.P.No.1033 of 2022

application was not even moved by the detenu and hence, the order that was relied upon by the detaining authority cannot be considered to be a similar case. Thus the impugned detention order is liable to be set aside on this ground.

In the result, the Habeas Corpus Petition is allowed and the order of detention in Memo No.51/BCDFGISSSV/2022 dated 12.04.2022, passed by the second respondent is set aside. The detenu, viz., Sathish, 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.)
06..12..2022

Index: Yes/No
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H.C.P.No.1033 of 2022

To
WEB COPY

- 1.The Secretary to Government,
Department of Home, Prohibition and Excise,
Fort St. George, Chennai 600009.
- 2.The Commissioner of Police,
Tambaram City, Tambaram,
Chennai.
- 3.The Superintendent of Prison,
Central Prison,
Puzhal, Chennai 600006.
- 4.The Inspector of Police,
J-10, Chemmanchery Police Station,
Chemmanchery, 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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H.C.P.No.1033 of 2022

P.N.PRAKASH.J.,
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kmk

H.C.P.No.1033 of 2022

06..12..2022

Page 6 of 6