



WEB COPY



H.C.P.No.1009 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14..12..2022

Coram

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

The Honourable Mr. Justice **N.ANAND VENKATESH**

Habeas Corpus Petition No.1009 of 2022

Vijayalakshmi

..... Petitioner

-Versus-

1.State Rep. by its
Secretary to Government of Tamil Nadu,
Prohibition and Excise Department (Home),
Secretariat, Fort St. George,
Chennai 600 009.

2.The Commissioner of Police,
Commissioner Office-Greater Chennai,
Vepery, Chennai 600007.

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

4.The Inspector of Police,
B-2, Esplanade Police Station,
Chennai.

.... Respondents



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Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus of nature of Writ of Habeas Corpus calling for the entire records relating to the detention order detaining the petitioner's husband under Tamil Nadu Act 14 of 1982 vide detention order dated 04.05.2022 on the file of the second respondent herein made in proceedings in Memo.No.102/BCDFGISSSV/2022 and to quash the same as illegal and consequently, direct the respondents herein to produce the petitioners husband namely Dinesh Kumar, aged about 32 years, Son of Ganesan, now confined in Central Prison, Puzhal, Chennai, before this court and set him at liberty forthwith.

For Petitioner : Mr.P.Prince Premkumar

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

ORDER

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

The petitioner is the wife of the detenu viz., Dinesh Kumar. The detenu has been detained by the second respondent by his order in Memo.No.102/BCDFGISSSV/2022 dated 04.05.2022, 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.



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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 on bail by relying upon the order passed in Crl.M.P.No.10485 of 2021 by the Principal Sessions Judge, Chennai.

4. The learned counsel for the petitioner submitted that the order that was relied upon by the detaining authority is not a similar case. Hence, the order of detention suffers from 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, the detenu has not even moved any bail application and hence the



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order that was relied upon by the detaining authority cannot be considered to be a similar case. Therefore, the impugned detention order suffers from non application of mind and the same 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.102/BCDFGISSSV/2022, dated 04.05.2022, passed by the second respondent is set aside. The detenu, viz., Dinesh Kumar, 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.)
14..12..2022

Index: Yes/No
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To
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- 1.The Secretary to Government of Tamil Nadu,
Prohibition and Excise Department (Home),
Secretariat, Fort St. George,
Chennai 600 009.
- 2.The Commissioner of Police,
Commissioner Office-Greater Chennai,
Vepery, Chennai 600007.
- 3.The Superintendent of Prison,
Central Prison,
Puzhal, Chennai.
- 4.The Inspector of Police,
B-2, Esplanade Police Station,
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.,

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