



HCP No.1059 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2022

Coram

THE HONOURABLE MR. JUSTICE P.N.PRAKASH

and

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

HCP No.1059 of 2022

S.Thilagavathy
W/o.Sekar

.. Petitioner

Vs.

- 1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat,
Fort St. George, Chennai – 600 009.
- 2.The Commissioner of Police/Detaining Authority,
Huzur Road,
Coimbatore City,
Coimbatore – 18.
- 3.The Superintendent of Police,
Central Prison – Coimbatore,
Coimbatore District.
4. State Rep. by its
The Inspector of Police,
B-4 Ukkadam Police Station,
Coimbatore District.

...Respondents



HCP No.1059 of 2022

Habeas Corpus Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the records, relating to the petitioner's son detention under Tamil Nadu Act 14 of 1982 vide detention order, dated 26.05.2022 on the file of the second respondent herein made in proceedings Memo C.No.35/G/IS/2022, quash the same as illegal and consequently, direct the respondents herein to produce the petitioner's son namely S.Muthupandi, S/o.Sekar, aged 23 years before this Court and set the petitioner's son at liberty from detention, now the petitioner's son detained at Central Prison, Coimbatore.

For Petitioner : Mr.W.Camyles Gandhi

For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

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

The petitioner is the mother of the detenu viz., S.Muthupandi, S/o.Sekar, aged 23 years. The detenu has been detained by the second respondent by his order in C.No.35/G/IS/2022 dated 26.05.2022, 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.



HCP No.1059 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 learned counsel for the petitioner mainly contended that the detaining authority after being aware of the fact that no bail application was filed by the detenu, had come to the conclusion that there is likelihood of the detenu coming out on bail by relying upon an order passed in Crl.M.P.No.2997 of 2016. 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. In the case in hand, there are two adverse cases and the ground case has been registered for offences under Sections 341, 147, 148, 294(b), 307 and 302 IPC. We have carefully perused the order passed in Crl.M.P.No.2997 of 2016. It is



HCP No.1059 of 2022

seen that the accused therein were granted bail by the concerned Court after taking into consideration the fact that the investigation was almost completed and there were no previous cases against the accused therein. That apart, the Court also took into consideration the long incarceration suffered by the accused therein. 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 C.No.35/G/IS/2022 dated 26.05.2022 passed by the second respondent is set aside. The detenu, viz., S.Muthupandi, S/o.Sekar, aged 23 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]
20.12.2022

Index: Yes/No
gm



HCP No.1059 of 2022

To
WEB COPY

- 1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat,
Fort St. George, Chennai – 600 009.
- 2.The Commissioner of Police/Detaining Authority,
Huzur Road,
Coimbatore City,
Coimbatore – 18.
- 3.The Superintendent of Police,
Central Prison – Coimbatore,
Coimbatore District.
- 4.The Inspector of Police,
B-4 Ukkadam Police Station,
Coimbatore District.
- 5.The Joint Secretary to Government of Tamil Nadu,
Public, Law and Order Department,
Secretariat, Chennai – 9.
- 6.The Public Prosecutor,
High Court, Madras.



WEB COPY



HCP No.1059 of 2022

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

gm

HCP No.1059 of 2022

20.12.2022