



WEB COPY



H.C.P.No.1041 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.1041 of 2022

Krishnaveni

Petitioner

v

State rep. by

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

2 The Commissioner of Police
Salem City

3 The Superintendent of Prison
Central Prison
Salem

4 The Inspector of Police
Sooramangalam Police Station
Salem City

Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue
a WRIT OF HABEAS CORPUS calling for the records in C.M.P.No.
41/Goonda/Salem City/2022 dated 16.05.2022 on the file of the Commisioner of



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Police, Salem City, the 2nd respondent herein and quash the same as illegal and direct the respondent to produce the detenu *viz.*, Ajith @ Yamaha Ajith @ Ajithkumar, aged 25 years, S/o.Murugan, now confined in the Central Prison, Salem, before this Court and set him at liberty.

For petitioner Ms.S.Sengkodi
For respondents Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

[Made by N.ANAND VENKATESH, J.]

The petitioner is the mother of the detenu *viz.*, Ajith @ Yamaha Ajith @ Ajithkumar, aged 25 years, S/o.Murugan. The detenu has been detained by the 2nd respondent by his order dated 16.05.2022 in C.M.P.No.41/Goonda/Salem City/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 for the petitioner submitted that the detaining authority, in spite of being aware of the fact that the detenu did not file any bail petition, had come to the conclusion that there is likelihood of the detenu coming



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out on bail, by taking note of the order dated 02.02.2019 passed in Crl.M.P.No.346 of 2019, which is not an order passed in a similar case.

4. The detenu has two adverse cases viz., Sooramangalam P.S. Crime No.774 of 2021 and Karuppur P.S. Crime No.78 of 2022. In the bail order that was relied upon by the detaining authority, there is no indication that there were previous cases pending against the detenu. That apart, the Court below took into consideration the incarceration already suffered by the detenu and granted bail. The learned counsel submitted that the order that was relied upon by the detaining authority is not an order passed in a similar case; hence, the detention order suffers from non-application of mind, which submission, merits the acceptance of this Court.

5. In the result, the Habeas Corpus Petition is allowed and the order of detention in C.M.P.No.41/Goonda/Salem City/2022 dated 16.05.2022, passed by the 2nd respondent is set aside. The detenu viz., Ajith @ Yamaha Ajith @ Ajithkumar, aged 25 years, S/o.Murugan, is directed to be released forthwith, unless his detention is required in connection with any other case.

gya
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 Secretary to Government
Home, Prohibition and Excise Department
Secretariat, 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
Salem City
- 4 The Superintendent of Prison
Central Prison, Salem
- 5 The Inspector of Police
Sooramangalam Police Station
Salem City
- 6 The Public Prosecutor
High Court, Madras

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