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H.C.P.No.1079 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.1079 of 2022

Kannan,
Son of Perumal

..... Petitioner

-Versus-

- 1.The Principal Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai 600009.
- 2.The Commissioner of Police,
Tambaram City.
- 3.The Superintendent of Prison,
Central Prison, Puzhal, Chennai 66.
- 4.The Inspector of Police,
S-10, Pallikaranai Police Station,
Chennai.

.... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus calling for the records in connection with the order of detention passed by the second respondent dated 18.05.2022 in Memo



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No.84/BCDFGISSSV/2022 against the petitioner's son-in-law, viz., Arun, male, aged 26 years, Son of Murugan, now confined at Central Prison, Puzhal, Chennai, and to set aside the same and consequently direct the respondents to produce the detenu before this court and set him at liberty forthwith.

For Petitioner : *Mr.E.Kannadasan for*
Mr.S.Senthilvel

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

ORDER

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

The petitioner is father-in-law of the detenu viz., Arun Son of Murugan. The detenu has been detained by the second respondent by his order in No.84/BCDFGISSSV/2022 dated 18.05.2022, 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.

2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents. We



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have also perused the records produced by the Detaining Authority.

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3.The learned Additional Public Prosecutor submitted that the detenu was arrested on 22.03.2022 and the investigation was completed and final report was filed on 18.05.2022. After committal, the Principal Sessions Judge, Chengalpattu, took the case on file in S.C.No.144 of 2022 and the case is now pending at the stage of framing of charges.

4. The learned counsel for the petitioner submitted that the detenu surrendered before a Court of Magistrate and thereafter, he was remanded to judicial custody. That apart, the detaining authority was aware of the fact that the bail petition filed by the detenu was pending and in spite of the same, the detaining authority came to a conclusion that there is likelihood of the detenu coming out on bail by relying upon the order in CrI.M.P.No.10485 of 2021. The learned counsel further submitted that the order that was relied upon by the detaining authority is not a similar case and hence, the detention order suffers from non application of mind.



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5. We have carefully gone through the order passed by the learned Principal Sessions Judge, Chennai, in CrI.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. The bail order that was relied upon by the detaining authority cannot, therefore, be considered to be a similar case. Thus the impugned order of detention clearly 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 No.84/BCDFGISSSV/2022 dated 18.05.2022, passed by the second respondent is set aside. The detenu, viz., Arun, Son of Murugan, 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



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Index: Yes/No

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To

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Tambaram City.
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Central Prison, Puzhal, Chennai 66.
- 4.The Inspector of Police,
S-10, Pallikaranai Police Station,
Chennai.
- 6.The Joint Secretary to Government of Tamil Nadu,
Public, Law and Order Department,
Secretariat, Chennai – 9.
- 7.The Public Prosecutor,
High Court, Madras.

Copy to

- 1.The Principal District and Sessions Judge, Chengalpattu.



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

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