



HCP No.1108 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.12.2022

Coram

**THE HONOURABLE MR. JUSTICE P.N.PRAKASH
and
THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH**

H.C.P.No.1108 of 2022

Vishnupriya

W/o.Vasanthakumar

.. Petitioner

Vs.

1.State of Tamil Nadu, represented by
The Secretary to Government,
Department of Home, Prohibition and Excise,
Secretariat, Fort St.George,
Chennai.

2.The Commissioner of Police,
Greater Chennai,
Office of Commissioner of Police,
Vepery, Chennai - 7.

3.The Superintendent of Police,
Central Prison - Puzhal II,
Puzhal, Chennai.

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

.. Respondents



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Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus calling for the records in Memo No.101/BCDFGISSSV/2022 passed by the second respondent on 04.05.2022 on the file of the second respondent and quash the same as illegal and consequently, direct the respondent to produce petitioner's husband Vasantha Kumar S/o.Shanmugam, aged about 22 years, before this Court, who is now detained at Central Prison, Puzhal - II and set him at liberty.

For Petitioner : Mr.A.Elumalai

For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

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

The petitioner is the wife of the detenu viz., Vasantha Kumar S/o.Shanmugam, aged about 22 years. The detenu has been detained by the second respondent by his order in No.101/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 learned counsel for the petitioner submitted that 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 detenue coming out on bail by relying upon the order in Crl.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.

4. 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



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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.101/BCDFGISSSV/2022 dated 04.05.2022 passed by the second respondent is set aside. The detenu, viz., Vasantha Kumar S/o. Shanmugam, aged about 22 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]
16.12.2022

Index: Yes/No
gm

To

1. The Secretary to Government,
Department of Home, Prohibition and Excise,
Secretariat, Fort St. George,
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2.The Commissioner of Police,
Greater Chennai,
Office of Commissioner of Police,
Vepery, Chennai - 7.

3.The Superintendent of Police,
Central Prison - Puzhal II,
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

gm

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