



WEB COPY



H.C.P.No.1110 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19..12..2022

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

Habeas Corpus Petition No.1110 of 2022

Latha

..... Petitioner

-Versus-

- 1.State of Tamil Nadu,
Rep. by the Additional Secretary,
Home, Prohibition and Excise Department,
Fort St.George, Chennai 600 009.
- 2.The Commissioner of Police,
Chennai City, Vepery, Chennai 600 007.
- 3.The Inspector of Police (L & O),
P-4, Basin Bridge Police Station,
Chennai.
- 4.The Superintendent of Prison,
Central Prison II,
Puzhal, Chennai 600 066.

.... Respondents

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 detention order



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in Memo No.29/BCDFGISSSV/2022 dated 02.03.2022 passed by the 2nd respondent under the Tamilnadu Act 14 of 1982 and set aside the same and direct the respondent to produce the petitioner's son Thiru.Achu @ Ashwinkumar @ Ashwin, S/o.Edwin, aged about 24 years the detainee, now confined in Central Prison, Puzhal, Chennai before this Hon'ble Court and set the petitioner's son Thiru.Achu @ Ashwinkumar @ Ashwin, S/o.Edwin, aged about 24 years the detainee herein at liberty.

For Petitioner : Mr.R.Muthukumar

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

ORDER

[Order of the Court was made by P.N.PRAKASH.J.,]

The petitioner is the mother of the detainee viz., Achu @ Ashwinkumar @ Ashwin, S/o.Edwin. The detainee has been detained by the second respondent by his order in Memo No.29/BCDFGISSSV/2022 dated 02.03.2022, 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 petitioner is that detaining authority was aware of the fact that the bail petitions filed by the detainee in the 5th adverse case and in the ground case were dismissed. However, the detaining authority came to a conclusion that there is likelihood of the detainee coming out on bail by relying upon two bail orders passed in CrI.M.P.No.9467 of 2017 and CrI.M.P.No.21605 of 2019 passed by the Principal Sessions Judge, Chennai.

4. The learned counsel for the petitioner submitted that the orders that were relied upon by the detaining authority do not pertain to the similar cases and hence, the detention order suffers from non application of mind.

5. We have carefully gone through the orders passed CrI.M.P.No.9467 of 2017 and CrI.M.P.No.21605 of 2019 passed by the



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Principal Sessions Judge, Chennai. In the present case, there were 5 adverse cases against the detenu and one ground case. Admittedly, the bail petitions that were filed in the 5th adverse case and in the ground case were dismissed. The detaining authority had taken into consideration the orders passed in CrI.M.P.No.9467 of 2017 and CrI.M.P.No.21605 of 2019 passed by the Principal Sessions Judge, Chennai. In both the cases there were no previous cases reported against the accused therein. That apart, the court also took into consideration the long period of incarceration suffered by the accused therein and the fact that the victim was discharged from the hospital. In the present case, there were 5 adverse cases against the detenu and the bail petitions filed by him in the 5th adverse case and in the ground case were dismissed. Hence, the orders that were relied upon by the detaining authority cannot be considered to be similar cases. 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 Memo No.29/BCDFGISSSV/2022 dated 02.03.2022 , passed by the second respondent is set aside. The detenu, viz., Achu @



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Ashwinkumar @ Ashwin, S/o.Edwin, 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.)
19..12..2022

Index: Yes/No
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To

- 1.The Additional Secretary,
Home, Prohibition and Excise Department,
Fort St.George, Chennai 600 009.
- 2.The Commissioner of Police,
Chennai City, Vepery, Chennai 600 007.
- 3.The Inspector of Police (L & O),
P-4, Basin Bridge Police Station,
Chennai.
- 4.The Superintendent of Prison,
Central Prison II,
Puzhal, Chennai 600 066.
- 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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AND
N.ANAND VENKATESH.J.,

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