



WEB COPY



H.C.P.No.1204 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19..12..2022

Coram

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

The Honourable Mr. Justice **N.ANAND VENKATESH**

Habeas Corpus Petition No.1204 of 2022

V.Prabavathi

..... Petitioner

-Versus-

- 1.The State, Represented by its,
Secretary, Government of Tamil Nadu,
Home [Prohibition and Excise] Department,
Tamil Nadu Government Chief Secretariat,
Fort Saint George, Chennai 600 009.
- 2.The Commissioner of Police, Tambaram City,
Office of the Commissioner of Police,
Sholinganallur, Chennai 600 119.
- 3.The Superintendent,
Central Prison, Puzhal,
Chennai 600 066.
- 4.The State, rep by its,
Inspector of Police [Crimes]
S-10, Pallikaranai Nagar Police Station,
Chennai.

.... Respondents



H.C.P.No.1204 of 2022

Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus to call for the records of the second respondent in BCDFGISSSV.No.81/2022 dated 18.05.2022 and quash the same and thereby direct the respondents to produce the brother of the petitioner namely Thiru.Pushparaja @ Pushparaj, S/o.Samuelraj, aged about 33 years [Detenue] now detained at Central Prison, Puzhal, Chennai before this Hon'ble Court and set him at liberty forthwith.

For Petitioner : Mr.M.Ravikumar

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

ORDER

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

The petitioner is the sister of the detenu Pushparaja @ Pushparaj, Son of Samuelraj. The detenu has been detained by the second respondent by his order in BCDFGISSSV.No.81/2022 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



H.C.P.No.1204 of 2022

have also perused the records produced by the Detaining Authority.

WEB COPY

3.Though many grounds have been raised in the petition, learned counsel appearing for the petitioner, confines his argument only in respect of non-application of mind on the part of the detaining authority in passing the order of detention. According to the learned counsel appearing for the petitioner, the sponsoring authority has stated in the Arrest Memo at page No.501 of the Booklet furnished to the detenu, that the arrest of the detenu has been intimated to the sister of the detenu. However, there is no material to substantiate the service of arrest intimation stated to have been made to the sister of the detenu. Therefore, it is stated that the detenu was deprived of making an effective representation in the absence of furnishing of full particulars by the detaining authority. Hence, it is stated that the Detaining Authority has passed the impugned detention order in total non-application of mind.

4.Per contra, the learned Additional Public Prosecutor would submit that the arrest of the detenu has been intimated to the sister of the detenu



H.C.P.No.1204 of 2022

obligation of the detaining authority to show that the impugned detention meticulously accords with the procedure established by law. Preventive detention is preventive and not punitive. When ordinary law of the land is sufficient to deal with, taking recourse to the preventive detention law is illegal. The impugned detention order is therefore liable to be quashed.

8. In the result, the Habeas Corpus Petition is allowed and the order of detention in BCDFGISSSV.No.81/2022 dated 18.05.2022, passed by the second respondent is set aside. The detenu, viz., Pushparaja @ Pushparaj, Son of Samuelraj, 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
kmk



H.C.P.No.1204 of 2022

To
WEB COPY

- 1.The Secretary, Government of Tamil Nadu,
Home [Prohibition and Excise] Department,
Tamil Nadu Government Chief Secretariat,
Fort Saint George, Chennai 600 009.
- 2.The Commissioner of Police, Tambaram City,
Office of the Commissioner of Police,
Sholinganallur, Chennai 600 119.
- 3.The Superintendent,
Central Prison, Puzhal,
Chennai 600 066.
- 4.The Inspector of Police [Crimes]
S-10, Pallikaranai Nagar 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.



WEB COPY



H.C.P.No.1204 of 2022

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

kmk

H.C.P.No.1204 of 2022

19..12..2022