



WEB COPY



H.C.P.No.1167 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.1167 of 2022

Greeshma Ramesh

..... Petitioner

-Versus-

1.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Chennai 600 009.

2.The Commissioner of Police,
Tambaram City.

3.The Superintendent of Prison,
Central Prison, Puzhal,
Chennai 66

4.The Inspector of Police, Law and Order,
S-10, Pallikaranai Police Station,
(CCB, Tambaram City),
Chennai.

.... Respondents

Petition filed under Article 226 of the Constitution of India to issue a
Writ of Habeas Corpus to call for the records in connection with the order of

Page 1 of 6



H.C.P.No.1167 of 2022

Detention passed by the second respondent dated 30.05.2022 in Memo No.94/BCDFGISSSV/2022 against the petitioner's husband viz., Rajesh Kumar, male, aged about 40, S/o.Vijayan, who is confined at Central Prison, Puzhal Chennai and set aside the same and direct the respondents to produce the detenue before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.S.Senthilvel

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

ORDER

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

The petitioner is the wife of the detenu viz.,Rajesh Kumar, male, aged about 40, S/o.Vijayan. The detenu has been detained by the second respondent by his order in Memo No.94/BCDFGISSSV/2022 dated 30.05.2022, 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.



H.C.P.No.1167 of 2022

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 petition that was filed by the detenu was dismissed and that there was no bail petition pending as on the date of passing of the detention order. However, the detaining authority came to a conclusion that there is likelihood of the detenue coming out on bail by relying upon the bail order dated 30.03.2022 passed in CrI.M.P.1418 of 2022 by the learned Judicial Magistrate-I, Tambaram.

4. The learned counsel for the petitioner therefore submitted that the order that was relied upon by the detaining authority cannot be considered to be a similar case since the bail was granted in that case u/s 167(2) of Cr.P.C. and hence, the detention order suffers from non application of mind.



H.C.P.No.1167 of 2022

5. We have carefully gone through the order dated 30.03.2022 passed

in CrI.M.P.No.1418 of 2022 by the learned Judicial Magistrate-I, Tambaram.

In that case, statutory bail was granted on the ground that the final report was not filed within time and the accused therein had already suffered incarceration for more than 63 days. Therefore, the bail order that was relied upon by the detaining authority cannot 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 Memo No.94/BCDFGISSSV/2022 dated 30.05.2022, passed by the second respondent is set aside. The detenu, viz., Rajesh Kumar, male, aged about 40, S/o.Vijayan, 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

Page 4 of 6



H.C.P.No.1167 of 2022

WEB COPY To

- 1.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Chennai 600 009.
- 2.The Commissioner of Police,
Tambaram City.
- 3.The Superintendent of Prison,
Central Prison, Puzhal,
Chennai 66
- 4.The Inspector of Police, Law and Order,
S-10, Pallikaranai Police Station,
(CCB, Tambaram City),
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.1167 of 2022

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

kmk

H.C.P.No.1167 of 2022

19..12..2022