



WEB COPY



H.C.P.No.1295 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16..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.1295 of 2022

Selvi
W/o Balasubramaniam

..... Petitioner

-Versus-

- 1.State of Tamil Nadu,
Rep. by its Secretary to Government (Home),
Prohibition and Excise Department,
Fort ST. George, Chennai 600009.
- 2.The Commissioner of Police/
Detaining Authority,
Coimbatore.
- 3.The Superintendent of Prison,
Central Prison – Coimbatore,
Coimbatore.
- 4.The Inspector of Police,
All Women Police Station (East),
Coimbatore City.

.... Respondents

Petition filed under Article 226 of the Constitution of India to issue a
Writ of Habeas Corpus calling for the entire records of the 2nd respondent in



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his proceeding C.No.21/G/IS/2022 dated 09.04.2022 and to quash the same and consequently direct the respondents to produce the petitioner's son, the detenu viz., B.Muthuprakash, aged 31 years, Son of Balasubramaniam, now confined in Central Prison, Coimbatore, before this court and set him at liberty.

*For Petitioner : Mr.E.Kannadasan for
Mr.M.Machavatharam*

*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 detenu viz., B.Muthuprakash, son of Balasubramaniam. The detenu has been detained by the second respondent by his order in C.No.21/G/IS/2022 dated 09.04.2022, holding him to be a "**sexual offender**", as contemplated under Section 2(ggg) 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 have also perused the records produced by the Detaining Authority.



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3. The learned Additional Public Prosecutor submitted that the detenu in this case was arrested in connection with the ground case on 19.03.2022; investigation was completed and final report was filed on time, i.e., on 20.06.2022, which was taken on file in Spl.S.C.No.94 of 2022 on the file of the Sessions Judge, Special Court for Trial of POCSO Cases, Coimbatore; and the case is now at the stage of trial.

4. The learned counsel for the petitioner submitted that the detaining authority after being aware of the fact that the detenu has not moved any bail application, came to a conclusion that steps are being taken to get bail for the detenu in this case and as such there is likelihood of his coming out on bail by relying upon the order dated 01.02.2021 passed by the learned Sessions Judge, Special Court for Exclusive Trial of cases under the Protection of Children from Sexual Offences Act, 2012, in CrI.M.P.76 of 2021. He, therefore, submitted that the order that was relied upon by the detaining authority does not pertain to a similar case.

5. We have carefully gone through the bail petition that was filed in CrI.M.P.No.76 of 2021 and the order that was passed therein on 01.02.2021. That was a case where there was a love affair between the



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victim girl and the body as a result of which, the victim girl became pregnant. That was questioned by the accused therein, who was the father of the victim girl, and as a result, the victim girl gave a complaint against the father as if he had sexually abused her. These facts were taken into consideration by the court concerned and the court also took into consideration the long period of incarceration suffered by the accused therein and bail was granted by imposing certain conditions. The bail order that was relied upon by the detaining authority, cannot therefore be considered to be a similar case. Therefore, the impugned detention order suffers from non application of mind and the same liable to be set aside on this ground.

In the result, the Habeas Corpus Petition is allowed and the order of detention in C.No.21/G/IS/2022 dated 09.04.2022, passed by the second respondent is set aside. The detenu, viz., B.Muthuprakash, Son of Balasubramaniam, 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
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- 1.The Secretary to Government (Home),
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- 2.The Commissioner of Police/
Detaining Authority,
Coimbatore.
- 3.The Superintendent of Prison,
Central Prison – Coimbatore,
Coimbatore.
- 4.The Inspector of Police,
All Women Police Station (East),
Coimbatore City.
- 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
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