



HCP No.1256 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 23.12.2022

Coram

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

H.C.P.No.1256 of 2022

P.Senthilkumar
S/o.Purusothaman

... Petitioner

Vs.

The State represented by

1.The Commissioner of Police,
Greater Chennai,
Vepery, Chennai.

2.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Madras - 600 009.

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

4.The Inspector of Police,
S-7 Madipakkam Police Station,
Chennai.

... Respondents



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Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus calling for the records of the detention order of Gauthaman S/o.Purushothaman, aged 45 years, presently confined in Central Prison, Puzhal, Chennai, in Memo No.145/BCDFGISSSV/2022 dated 03.06.2022, passed by the first respondent under Section 3(1) of T.N.Act 15/1982, set aside the same and direct the respondents to produce the detenu Gauthaman S/o.Purushothaman, aged 45 years, who is confined at Central Prison, Puzhal, Chennai, before this Court and set him at liberty.

For Petitioner : Mr.S.V.D.Rajendra Prasad
For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

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

The petitioner is the brother of the detenu, Gauthaman S/o.Purushothaman, aged 45 years. The detenu has been detained by the first respondent by his order in No.145/BCDFGISSSV/2022 dated 03.06.2022, 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 learned counsel for the petitioner and learned Additional Public Prosecutor 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 after being aware of the fact that the detenu has not moved any bail application, had come to the conclusion that there is likelihood of the detenu coming out on bail by relying upon an order passed in CrI.M.P.No.10485/2021. Learned counsel submitted that the order relied upon by the detaining authority is not a similar case. Hence, the detention order suffers from non-application of mind.

4. We have carefully gone through the order passed in CrI.M.P.No.10485/2021, which was relied upon by the detaining authority to come to the conclusion that that there is likelihood of the detenu coming out on bail. In the said order, no serious objections were raised by the Public Prosecutor for granting bail to the accused therein. That apart, no previous cases were pending against the accused therein and the Court also took into



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consideration that accused therein suffered incarceration for sufficient number of days. Hence, the order relied upon by the detaining authority cannot be held to be a similar case and hence, it reflects non-application of mind.

In the result, the Habeas Corpus Petition is allowed and the order of detention in No.145/BCDFGISSSV/2022 dated 03.06.2022, passed by the first respondent is set aside. The detenu, viz., Gauthaman S/o.Purushothaman, aged 45 years, is directed to be released forthwith unless his detention is required in connection with any other case.

[PNP, J.] [NAV, J.]
23.12.2022

Index: Yes/No
gm

To

- 1.The Commissioner of Police,
Greater Chennai,
Vepery, Chennai.
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Home, Prohibition and Excise Department,
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- 3.The Superintendent,



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Central Prison - II,
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- 4.The Inspector of Police,
S-7 Madipakkam 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.

P.N.PRAKASH, J.



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and
N.ANAND VENKATESH, J.

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