



HCP No.1259 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.1259 of 2022**

Mukunthan  
S/o.Madhavan

.. Petitioner

**Vs.**

- 1.State of Tamil Nadu  
Rep. by The Additional Chief Secretary to Government,  
Home, Prohibition and Excise Department,  
Fort St. George, Chennai - 600 009.
- 2.The Commissioner of Police,  
The Greater Chennai City.  
Veppery, Chennai – 600 007.
- 3.The Superintendent of Police,  
Central Prison, Puzhal, Chennai – 600 066.
- 4.The Inspector of Police,  
E-3, Teynampet Police Station,  
Chennai.

.. Respondents



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Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus calling for the records relating to the detention order in Memo No.151/BCDFGISSSV/2022, dated 08.06.2022 passed by the 2<sup>nd</sup> respondent under the Tamil Nadu Act 14 of 1982 and set aside the same and direct the respondents to produce the petitioner's son Hari, S/o.Mukunthan aged about 33 years, the detenu now confined in Central Prison, Puzhal, Chennai before this Court and set the petitioner's son Hari, S/o.Mukunthan aged about 33 years the detenu herein at liberty.

For Petitioner : Mr.D.Gopi Krishnan  
For Respondents : Mr.R.Muniyapparaj  
Additional Public Prosecutor  
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### **ORDER**

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

The petitioner is the father of the detenu viz., Hari S/o Mukunthan, aged 33 years. The detenu has been detained by the second respondent by his order in No.151/BCDFGISSSV/2022 dated 08.06.2022, holding him to be a "Drug Offender", as contemplated under Section 2(e) 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.

3. The learned counsel appearing for the petitioner contended mainly that the detaining authority after being aware of the fact that the bail application moved by the detenu was pending and no orders were passed and in spite of the same, the detaining authority had come to a conclusion that there is a likelihood of the detenu coming out on bail by relying up on the order passed in Crl.M.P.No.1414 of 2021. The learned counsel further submitted that the order that was relied upon by the detaining authority is not a similar case. Hence, it was submitted that the detention order suffers from non-application of mind.

4. The learned Additional Public Prosecutor strongly opposed the Habeas Corpus Petition by filing his counter.

5. We have carefully gone through the order passed in Crl.M.P.No.1414 of 2021. It was a case where quantity involved was 1.200 Kgs. of Ganja and the



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Court took into consideration, the long incarceration suffered by the detenu. In the present case, the quantity involved is 9.700 Kgs. The order that was relied upon by the detaining authority in CrI.M.P.No.1414 of 2021 is not a similar case. Hence, the order of detention suffers from non application of mind.

In the result, the Habeas Corpus Petition is allowed and the order of detention in No.151/BCDFGISSSV/2022 dated 08.06.2022 passed by the second respondent is set aside. The detenu, viz., Hari S/o Mukunthan, aged 33 years, 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]  
23.12.2022

Index: Yes/No  
gm/ssr

To

- 1.The Additional chief Secretary to Government,  
Home, Prohibition and Excise Department,  
Fort St. George, Chennai - 600 009.
- 2.The Commissioner of Police,  
The Greater Chennai City.  
Veppery, Chennai – 600 007.



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3. The Superintendent of Police,  
Central Prison, Puzhal, Chennai – 600 066.

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4. The Inspector of Police,  
E-3, Teynampet 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.



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**P.N.PRAKASH, J**  
and  
**N.ANAND VENKATESH, J**

SSR

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