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H.C.P.No.1369 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16..12..2022

Coram

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

Habeas Corpus Petition No.1369 of 2022

S.Hemalatha,
W/o Subash

..... Petitioner

-Versus-

- 1.The State of Tamil Nadu,
Rep. by the Secretary,
Department of Home, Prohibition and Excise,
Secretariat, Fort St. George,
Chennai 600009.
- 2.The Commissioner of Police,
Office of the Commissioner of Police,
Vepery, Chennai.
- 3.The Superintendent of Prison,
Central Prison,
Puzhal, Chennai.
- 4.The Inspector of Police,
C.C.B.-I, Chennai.

.... Respondents



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Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus calling for the records of the 2nd respondent in detention order in Order No.93/BCDFGISSSV/2022 dated 02.05.2022 passed by the 2nd respondent under the Tamil Nadu act 14 of 1982 and to set aside the same as illegal and unconstitutional and also direct the respondents to produce the petitioner's husband viz., Subash, aged 37 years, Son of Chandrabose, now confined in Central Prison, Puzhal, Chennai, before this court and set him at liberty.

For Petitioner : Mr.G.Mohanakrishnan

*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., Subash, Son of Chandrabose. The detenu has been detained by the second respondent by his order in Order No.93/BCDFGISSSV/2022 dated 02.05.2022, 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.



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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 appellant is that the detaining authority after being aware of the fact that all the bail applications moved by the detenu were dismissed, came to a conclusion that steps are being taken to a file fresh bail application and that there is likelihood of the detenu being let out on bail by relying upon the order passed by the learned Principal Sessions Judge, Chengalpattu, in CrI.M.P.No.4897 of 2019.

4. The learned counsel for the petitioner, therefore, submitted that the order that was relied upon by the detaining authority does not pertain to a similar case and hence, the order of detention suffers from non application of mind.

5. We have carefully gone through the order passed by the learned Principal Sessions Judge, Chengalpattu, in CrI.M.P.No.4897 of 2019. That



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was a case where the bail was granted to the accused therein on the ground that he had already suffered incarceration for more than 58 days and that there is no indication to show that there was any previous case against the accused therein. Whereas in the present case, there is one previous case against the detenu and therefore, the order that was relied upon by the detaining authority cannot be considered to be a similar case. Thus the impugned detention order is liable to be set aside on this ground.

In the result, the Habeas Corpus Petition is allowed and the order of detention in Order No.93/BCDFGISSSV/2022 dated 02.05.2022,, passed by the second respondent is set aside. The detenu, viz.,Subash, Son of Chandrabose, 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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To

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1. The Secretary, State of Tamil Nadu,
Department of Home, Prohibition and Excise,
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2. The Commissioner of Police,
Office of the Commissioner of Police,
Vepery, Chennai.
3. The Superintendent of Prison,
Central Prison,
Puzhal, Chennai.
4. The Inspector of Police,
C.C.B.-I, 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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AND
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