



WEB COPY



Order dated : 02.12.2022
HCP No.1419 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2022

Coram

THE HONOURABLE MR. JUSTICE P.N.PRAKASH
and
THE HONOURABLE MR. JUSTICE RMT. TEEKAA RAMAN

H.C.P.No.1419 of 2022

Nagavalli
W/o.Santhanam

... Petitioner

Vs.

1.State of Tamil Nadu,
represented 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,
Vepery, Chennai - 600 007.

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

4.The Inspector of Police,
D5, Marina 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 entire records relating to the detention order in Memo No.59/BCDFGISSSV/2022 dated 08.04.2022 passed by the second respondent under the Tamil Nadu Act 14 of 1982 and set aside the same and direct the respondents to produce the petitioner's son Akash S/o.Santhanam, aged about 21 years, the detenu, now confined in Central Prison, Puzhal, Chennai, before this Court and set him at liberty.

For Petitioner : Mr.T.V.Somasundaram
For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

[Made by ***RMT. TEEKAA RAMAN, J.***]

The petitioner is the mother of the detenu, Akash S/o.Santhanam, aged about 21 years, has been detained by the second respondent by his order in No.59/BCDFGISSSV/2022 dated 08.04.2022, 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. Learned counsel for the petitioner submits that page Nos.93 and 95 in the booklet furnished to the detenu are illegible. Learned counsel further submits that the same adversely has affected the detenu's right of making an effective representation.

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

5. When the documents furnished to the detenu are illegible, opportunity of clear understanding and making effective representation in keeping with Article 22(5) of the Constitution of India on such understanding is lost and the detenu is deprived thereof. This would vitiate the order of detention. For the aforesaid reasons, this Court would allow the present petition.



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In the result, the Habeas Corpus Petition is allowed and the order of detention in No.59/BCDFGISSSV/2022 dated 08.04.2022, passed by the second respondent is set aside. The detenu, viz., Akash S/o.Santhanam, aged about 21 years, is directed to be released forthwith unless his detention is required in connection with any other case.

[PNP, J.] [TKR, J.]
02.12.2022

Index: Yes/No
gm

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,
Vepery, Chennai - 600 007.
- 3.The Superintendent of Prison,
Central Prison, Puzhal,
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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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