



WEB COPY



H.C.P.No.1551 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06..12..2022

Coram

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

Habeas Corpus Petition No.1551 of 2022

Girija
W/o Ayyappan

..... Petitioner

-Versus-

1. Government of Tamil Nadu,
Rep. by its Secretary,
Home, Prohibition and Excise Department,
Secretariat, Chennai 600 009.
2. The District Collector and District Magistrate,
Vellore District, Vellore.
3. The Superintendent of Police, Vellore.
4. The Superintendent of Prison,
Central Prison, Vellore District.
5. The Inspector of Police,
K.V.Kuppam Police Station,
Vellore District.

.... 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 in C3/DO No.50/2022 dated 01.05.2022 from the file of the 2nd respondent and to quash the same and consequently, direct the respondents herein to produce the body of the detenu Ganesh @ Vinayagam, aged 24 years, Son of Iyappan, now, confined in Central Prison, Vellore, before this court and set him at liberty.

For Petitioner : Mr.D.Thirumoorthy

*For Respondents : Mr.R.Muniyapparaj,
Additional Public Prosecutor*

ORDER

[Order of the Court was made by N.ANAND VENKATESH.J.,]

The petitioner is the mother of the detenu viz., Ganesh @ Vinayagam. The detenu has been detained by the second respondent by his order in C3/DO No.50/2022 dated 01.05.2022 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 detaining authority, after being aware of the fact that the detenu has not filed any bail application before any court, came to a conclusion that there is likelihood of the detenu being let out on bail. The learned counsel for the petitioner submitted that the subjective satisfaction that was arrived at by the detaining authority was without any materials and hence, the order of detention suffers non application of mind..

4. we have carefully gone through the materials available on record. The detaining authority was aware of the fact that no bail application was filed by the detenu. However, the detaining authority came to a conclusion that the detenu will be let out on bail by merely stating that in many cases bail is granted by the courts and hence, most likely the detenu will be let out on bail. Such a subjective satisfaction was arrived at without any supporting material. Therefore, the impugned detention order is liable to be set aside on this ground.



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In the result, the Habeas Corpus Petition is allowed and the order of detention in C3/DO No.50/2022 dated 01.05.2022, passed by the second respondent is set aside. The detenu, viz., Ganesh @ Vinayagam, 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.)
06..12..2022

Index: Yes/No
kmk

To

- 1.The Secretary to Government, Home, Prohibition and Excise Department, Secretariat, Chennai 600 009.
- 2.The District Collector and District Magistrate, Vellore District, Vellore.
- 3.The Superintendent of Police, Vellore.
- 4.The Superintendent of Prison, Central Prison, Vellore District.
- 5.The Inspector of Police, K.V.Kuppam Police Station, Vellore District.
- 6.The Joint Secretary to Government of Tamil Nadu, Public, Law and Order Department, Secretariat, Chennai – 9.
- 7.The Public Prosecutor, High Court, Madras.

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