



WEB COPY



HCP No.1783 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.12.2022

Coram

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

H.C.P.No.1783 of 2022

R.Mala
W/o.Rajkumar

... Petitioner

Vs.

1.The State of Tamil Nadu,
represented by Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 600 009.

2.The Commissioner of Police,
No.132, EVK Sampath Road,
Vepery, Periyamet,
Chennai, Tamil Nadu - 600 007.

3.The Superintendent of Prisons,
Office of the Superintendent of Prisons,
Central Prison, Puzhal,
Chennai, Tamil Nadu - 600 066.

4.State Rep. by the Inspector of Police,
D-1 Triplicane Police Station,
Chennai, Tamil Nadu – 600 005

... 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 2nd respondent, pertaining to the order made in BCDFGISSSV No.90/2022 dated 23.04.2022 in detaining the detenu under the Tamil Nadu Act 14/1982 as a Goondas and quash the same and direct the respondents to produce the detenu, namely Ajay @ Ajithkumar, S/o.Rajkumar M/A-22 who is detained at the Central Prison, Puzhal, Chennai before this Court and set him at liberty.

For Petitioner : Mr.N.Harinarayanan
For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

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

The petitioner is the mother of the detenu, Ajay @ Ajithkumar S/o.Rajkumar, aged 22 years. The detenu has been detained by the second respondent by his order in BCDFGISSSV No.90/2022 dated 23.04.2022, 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. 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.Nos.18385 of 2021 and 18431 of 2021. Learned counsel submitted that the orders relied upon by the detaining authority are not similar cases. Hence, the detention order suffers from non-application of mind.

4. We have carefully gone through the orders passed in CrI.M.P.Nos.18385 of 2021 and 18431 of 2021, which were relied upon by the detaining authority to come to the conclusion that that there is likelihood of the detenu coming out on bail. It is seen that the accused therein were granted bail on the ground that the major portion of the investigation was completed and that the accused therein had suffered incarceration for more



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than 80 days and there was no previous case against the accused person. In the present case, there is an adverse case against the detenu and by no stretch, the order that was 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 BCDFGISSSV No.90/2022 dated 23.04.2022, passed by the second respondent is set aside. The detenu, viz., Ajay @ Ajithkumar S/o.Rajkumar, aged 22 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/ssr

To

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



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2. The Commissioner of Police,
No.132, EVK Sampath Road,
Vepery, Periyamet,
Chennai, Tamil Nadu - 600 007.
3. The Superintendent of Prisons,
Office of the Superintendent of Prisons,
Central Prison, Puzhal,
Chennai, Tamil Nadu - 600 066.
4. The Inspector of Police,
D-1 Triplicane Police Station,
Chennai, Tamil Nadu – 600 005
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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