



H.C.P.(MD)No.666 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.08.2022

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**THE HONOURABLE MR.JUSTICE P.N.PRAKASH
AND
THE HONOURABLE MRS.JUSTICE R.HEMALATHA**

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Amalarbavamary

: Petitioner

Vs.

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise (XVI) Department,
Fort St. George,
Chennai-9.

2.The District Collector and District Magistrate,
District Collector and District Magistrate's Office,
Thanjavur District.

3.The Superintendent of Prison
Trichy Central Prison,
Trichy.

: Respondents



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PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus, to call for the entire records connected with the detention order passed in P.D.No.08/2022 dated 27.01.2022 on the file of the 2nd respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu namely the petitioner's son ie. Akash, aged about 19 years, S/o.Anburose, now detained as Goonda at Central Prison, Trichy, before this Court and set him at liberty forthwith.

For Petitioner	: Mr.R.Alagumani
For Respondents	: Mr.A.Thiruvadi Kumar, Additional Public Prosecutor

ORDER

(Order of the Court was made by P.N.PRAKASH, J)

The petitioner is the mother of the detenu viz., Akash, aged about 19 years, S/o.Anburose. The detenu has been detained, as per the order of the second respondent, dated 27.01.2022, under Section 2(f) of the Tamil Nadu Act 14 of 1982, branding him as “Goonda”. Challenging the same, the petitioner is before this Court in this Habeas Corpus Petition.



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2. Though many grounds have been raised in the petition, the learned counsel for the petitioner focussed his argument on the ground that the detaining authority was aware of the fact that the petitioner was already in judicial custody in one adverse case, which was registered by the police in Tamil University Police Station Crime No.147/2021, in which case the detenu was not granted bail. However, the detaining authority did not take into consideration the fact that the petitioner was in judicial custody in the adverse case and at paragraph 5 of the detention order, the detaining authority has only taken into consideration the imminent possibility of the detenu coming out on bail in the ground case. Therefore, the learned counsel for the petitioner submitted that this by itself reflects non application of mind.

3. The further submission made by the learned counsel for the petitioner is that the detaining authority has stated in paragraph 5 in the detention order that in similar case, like the one, which has been registered against the detenu, this Court has granted bail to some other accused persons.



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4. We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents. We have also perused the records carefully.

5. On a perusal of the order of detention, in paragraph 5, it is seen that the detenu is involved in one ground case, namely, Kumbakonam East Police Station Crime No.1982/2021 and one adverse case, namely, Tamil University Police Station Crime No.147/2021. In paragraph 5 of the grounds of detention, the detaining authority has referred to the possibility of the detenu coming out on bail only in respect of the ground case, i.e., in Kumbakonam East Police Station Crime No.1982/2021, but not in the adverse case, namely, Tamil University Police Station Crime No.147/2021, which shows non application of mind on the part of the detaining authority. Hence, the detention order is vitiated.

6. In the result, this Habeas Corpus Petition is allowed and the impugned Detention Order, passed by the second respondent, in his proceedings in Detention Order P.D.No.08/2022 dated 27.01.2022 is



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quashed. The detenu, namely Akash, S/o.Anburose, aged about 19 years, is ordered to be set at liberty forthwith, if he is not required for detention in connection with any other case.

[P.N.P., J.] & [R.H., J.]
25.08.2022

Internet : Yes / No

Index : Yes / No

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To

- 1.The Additional Chief Secretary to Government,
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4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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