



H.C.P.(MD)No.693 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

and

THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH

H.C.P.(MD)No.693 of 2022

Eshwari

.. Petitioner

Vs.

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Sivagangai District,
Sivagangai.
- 3.The Superintendent of Prison,
Central Prison,
Madurai.
- 4.The Inspector of Police,
Thiruppuvanam Police Station,
Sivagangai District.

.. Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the entire records connected with the detention order in Cr.M.P.No.16/Goonda/2022, dated 09.04.2022 on the file of the second respondent and quash the same as illegal and direct the respondents to produce the body or person of the petitioner's son namely, Loosu Prakash @ Prakashraj, son of Dhamotharan, aged about 23 years, now confined at Madurai Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mrs.S.Prabha

For Respondents : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

ORDER

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

The petitioner is the mother of the detenu viz., Loosu Prakash @ Prakashraj, son of Dhamotharan, aged about 23 years. The detenu has been detained by the second respondent by his order in Cr.M.P.No. 16/Goonda/2022, dated 09.04.2022, holding him to be a "Goonda", as



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contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.

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. Though several grounds have been raised in the Habeas Corpus Petition, the learned counsel appearing for the petitioner would mainly focus his argument on the ground that there is gross violation of procedural safeguards, which would vitiate the detention. The learned counsel appearing for the petitioner submitted that the detaining authority had taken note of the bail order passed in CrI.M.P.(MD)No.3209 of 2019, dated 18.11.2019 and has come to a conclusion that there is a likelihood of the detenu being granted bail. According to the learned counsel appearing for the petitioner, inspite of request made for furnishing the translated copy of the said bail order, the same was not furnished.



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4. The learned Additional Public Prosecutor strongly opposed the Habeas Corpus Petition by filing his counter. He would submit that though there was delay in considering the representation, on that score alone, the impugned detention order cannot be quashed. According to the learned Additional Public Prosecutor, no prejudice has been caused to the detenu and thus, there is no violation of the fundamental rights guaranteed under Articles 21 and 22 of the Constitution of India.

5. The learned Additional Public Prosecutor, on instructions, submitted that the investigation was completed and final report was filed and it was taken on file by the Principal District Court, Sivagangai, in S.C.No.89 of 2022.

6. On consideration of the submissions made on either side and upon perusal of the documents available on record, especially, the representation made by the petitioner, dated 25.04.2022, the petitioner had sought for the translated copy of the bail order in Cr.M.P.No.3209 of 2019



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and the same has not been furnished. In view of the same, the detenu was not in a position to effectively make a representation. It is also seen that inspite of the request made by the detenu for furnishing translated copy of the bail order, the same has not been furnished. Therefore, on that score, the order of detention is liable to be interfered with by this Court. The impugned detention order is, therefore, liable to be quashed.

7. In the result, the Habeas Corpus Petition is allowed and the order of detention in Cr.M.P.No.16/Goonda/2022, dated 09.04.2022 passed by the second respondent is set aside. The detenu, viz., Loosu Prakash @ Prakashraj, son of Dhamotharan, aged about 23 years, is directed to be released forthwith unless his detention is required in connection with any other case.

(M.S.R., J.) (N.A.V., J.)

18.11.2022

Index : Yes/No
Internet : Yes
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- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
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