



HCP(MD)No.824 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 29.11.2022

CORAM

**THE HON'BLE MR JUSTICE M.S.RAMESH
AND
THE HON'BLE MR JUSTICE N. ANAND VENKATESH**

H.C.P.(MD)No.824 of 2022

M.Rohini

.. Petitioner /
mother of the detenu

Vs.

1.The State of Tamil Nadu

Rep. by the Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat Chennai-600 009.

2.The District Collector and District Magistrate
Kanyakumari District, Nagercoil.

3.The Superintendent of Prison,
Central Prison, Palayamkottai
Tirunelveli.

.. Respondents

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 passed in P.D.No.28 of 2022 dated 07.05.2022 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., Sujith aged about 29 years, S/o.Muthulingam, now detained at the Central Prison, Palayamkottai before this Court and set him at liberty forthwith.



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For Petitioner : Mr.N.Pragalathan
For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

(Order of the Court was made by N. ANAND VENKATESH,J.)

The petitioner is the mother of the detenu viz., Sujith aged about 29 years, S/o.Muthulingam. The detenu has been detained by the second respondent by his order in P.D.No.28 of 2022 dated 07.05.2022 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.

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 the detaining authority being aware of the fact that the bail application filed by the detenu was dismissed,



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however, the detaining authority took into consideration the order passed in CrI.M.P.No.1370/2021 on 08.03.2021 and came to the conclusion that there is likelihood of the detenu let out on bail and therefore, the learned counsel submitted that the similar case that has been relied upon by the detaining authority is not similar and hence, the detention order is liable to be interfered with.

4. The learned Additional Public Prosecutor strongly opposed the Habeas Corpus Petition by filing his counter. He would further submit that investigation was completed and charge sheet has been filed within the stipulated period and the case is pending in S.C.No.132/2022 before the First Additional District Judge, Kanyakumari.

5. On carefully going through the booklet and the detention order, it is seen that the detaining authority had taken note of the fact that there is likelihood of the detenu being let out on bail, since in similar case, bail was granted in CrI.M.P.No.1370/2021 on 08.03.2021. However, the similar case that has been relied upon by the detaining authority is not similar to that of the present case. In that case, the Court took into consideration the fact that



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there was no injury sustained by the de-facto complainant and that the major portion of the investigation has been completed and already the accused therein had suffered incarceration for nearly 33 days. However, in the present case, the de-facto complainant sustained injury and that apart the detenu had three adverse cases against him and a ground case and hence, the case in hand cannot be considered to be similar to that of the one that is referred in the detention order.

6. In view of the above, the detention order suffers from non application of mind and the same 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 P.D.No.28 of 2022 dated 07.05.2022 passed by the second respondent is set aside. The detenu, viz., Sujith, S/o.Muthulingam aged about 29 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.)
29.11.2022

Internet : Yes
RR



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To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat Chennai-600 009.
2. The District Collector and District Magistrate
Kanyakumari District, Nagercoil.
3. The Superintendent of Prison,
Central Prison, Palayamkottai
Tirunelveli.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.S.RAMESH, J.
and
N. ANAND VENKATESH, J.

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