

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **01.12.2022**

CORAM:

**THE HONOURABLE MR.JUSTICE M.S.RAMESH**

**and**

**THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH**

**H.C.P.(MD)No.865 of 2022**

Kalaiselvi

.. Petitioner

Vs.

1.The Principal Secretary to the Government,  
Home, Prohibition and Excise Department,  
Secretariat,  
Chennai - 600 009.

2.The Commissioner of Police,  
Tiruchirappalli City,  
Tiruchirappalli.

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

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to

issue a writ of Habeas Corpus to call for the entire records pertaining to the impugned detention order passed by the second respondent made in his proceedings in C.No.70/Detention/ C.P.O/T.C/2022, dated 16.05.2022 in detaining the detenu under Section 2(f) of the Tamil Nadu Act 14 of 1982 as "Goonda" and quash the same and direct the respondents to produce the detenu namely, Suresh @ Sulukki Suresh, son of Manickam, aged about 24 years, who is detained at Central Prison, Tiruchirappalli, before this Court and set him at liberty.

For Petitioner : Mr.K.M.Karunakaran

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., Suresh @ Sulukki Suresh, son of Manickam, aged about 24 years. The detenu has been detained by the second respondent by his order in C.No. 70/Detention/C.P.O/T.C/2022, dated 16.05.2022, 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 main ground that was urged by the learned counsel for the petitioner is that the detaining authority inspite of being aware of the fact that the bail petition filed by the detenu was dismissed on 12.05.2022, took into consideration the order passed in Cr.M.P. No.30 of 2022, whereby, the bail was granted to the co-accused in the very same case and came to a conclusion that there is a likelihood of the detenu coming out on bail. The learned counsel submitted that the order that was relied upon by the detaining authority cannot be considered to be a similar case and hence, the learned counsel submitted that it is clearly a non-application of mind on the part of the detaining authority to come to a subjective satisfaction.

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. We have carefully considered the submissions made on either side and also materials available on record.

6. The bail application filed by the detenu in the ground case was dismissed by an order, dated 12.05.2022. The Court while dismissing this application, took into consideration the earlier case is that where pending against the detenu. This order was passed inspite of the fact that the co-accused in the very same case was granted bail through order, dated 05.05.2022, passed in Cr.M.P.No.30 of 2022. This clearly shows that the order relied upon by the detaining authority in Cr.M.P.No.30 of 2022 cannot be considered to be a similar case and hence, the detention order suffers

from non-application of mind on the part of the detaining authority to come to the subjective satisfaction.

7. In view of the above, the detention order suffers from non-application of mind on the part of the detaining authority and the same is liable to be interfered with by this Court. The impugned detention order is, therefore, liable to be quashed.

8. In the result, the Habeas Corpus Petition is allowed and the order of detention in C.No.70/Detention/C.P.O/T.C/2022, dated 16.05.2022 passed by the second respondent is set aside. The detenu, viz., Suresh @ Sulukki Suresh, son of Manickam, aged about 24 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.)**  
**01.12.2022**

Index : Yes/No  
Internet : Yes  
rm

Copy to

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Tiruchirappalli.
- 3.The Superintendent of Prison,  
Central Prison,  
Tiruchirappalli.
- 4.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

*H.C.P.(MD)No.865 of 2022*

**M.S.RAMESH,J.**

**and**

**N.ANAND VENKATESH, J.**

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