



HCP(MD)No.882 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 19.10.2022

CORAM

**THE HON'BLE MRS JUSTICE J. NISHA BANU
AND
THE HON'BLE MR JUSTICE N. ANAND VENKATESH**

H.C.P.(MD)No.882 of 2022

M.Mohammed Hanifa

... Petitioner
/Father of the Detenu

Vs.

1.State of Tamil Nadu,
Rep. by the Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai – 600 009.

2.The District Collector and District Magistrate,
Tenkasi District,
Tenkasi.

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

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to
issue a Writ of Habeas Corpus, calling for the entire records connected with



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the detention order passed in M.H.S.Confdl.No.48 of 2022 dated 19.04.2022 on the file of the 2nd Respondent and quash the same and direct the respondents to produce the detenu or body of the detenu, namely Navaskhan, S/o.Mohammed Hanifa, aged about 30 years, now confined at Central Prison, Palayamkottai before this Court and set him at liberty.

For Petitioner : Mr.N.Pragalathan

For Respondents : Mr.A.Thiruvadi Kumar

Additional Public Prosecutor

ORDER

J. NISHA BANU, J.

and

N. ANAND VENKATESH, J.

The petitioner is the father of the detenu viz., Navaskhan, S/o. Mohammed Hanifa, aged 30 years. The detenu has been detained by the second respondent by his order in Detention Order M.H.S.Confdl.No.48 of 2022 dated 19.04.2022 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.



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, after taking note of the fact that the detenu has not filed bail application for one of the adverse cases in Crime No.662/2021 and the detenu has also not filed any bail application in the ground case, relied upon the order passed in Cr.M.P.Nos.811/2020 and 8081/2018 and came to a conclusion that bail has been granted in a similar case and therefore, there is likelihood of the detenu being let out on bail.

4. The submissions made by the learned Additional Public Prosecutor in reply to the above said contention raised by the learned counsel for the petitioner are also heard.



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That was a case where the bail was granted on the ground that no one sustained injury and the period of incarceration already suffered by the accused person. Insofar as the bail order passed in Crl.M.P.No.8081/2018 is concerned, before took into consideration the fact that major part of the investigation has been completed. The order passed in Cr.M.P.No.811/2020 cannot be considered to be a similar case since there was an assault on the injured causing bleeding injury with weapons. This clearly shows that the facts of the present case cannot be considered to be similar to the case dealt in Cr.M.P.No.811/2020. It really reflects the non application of mind on the part of the detaining authority. Therefore, on that score, the order of detention is liable to be set aside.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in Detention Order M.H.S.Confdl.No.48 of 2022 dated 19.04.2022 passed by the second respondent is set aside. The detenu, viz., Navaskhan, S/o.Mohammed Hanifa, aged 30 years, is directed to be released



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forthwith unless his detention is required in connection with any other case.

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(J.N.B.,J.) & (N.A.V.,J.)
19.10.2022

Index : Yes/No
Internet : Yes
PJJ

To:

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The State of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat,
Chennai – 600 009.
- 2.The District Collector and District Magistrate,
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Tenkasi.
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- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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