

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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.922 of 2022

Sudalaipandi

... Petitioner /Detenue

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 Commissioner of Police,
Tirunelveli City,
Tirunelveli.

3.The Superintendant 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 the detention order passed in No.47/BCDFGISSSV/2022 dated 10.05.2022

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 Sudalaipandi, aged about 46 years, S/o.Ganapathi Thevar, now detained at the Central Prison, Palayamkottai before this Court and set him at liberty forthwith.

For Petitioner : Mr.N.Pragalathan

For Respondents : Mr.A.Thiruvadikumar

Additional Public Prosecutor

ORDER

M.S.RAMESH,J.

and

N. ANAND VENKATESH,J.

The petitioner is the detenu viz., Sudalaipandi, aged about 46 years, S/o.Ganapathi Thevar. The detenu has been detained by the second respondent by his order in No.47/BCDFGISSSV/2022 dated 10.05.2022 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 there is gross violation of procedural safeguards, which would vitiate the detention. The learned counsel, by placing authorities, submitted that the representation made by the petitioner was not considered on time and there was an inordinate and unexplained delay.

4. Apart from the other grounds, the main ground that was urged by the learned counsel for the petitioner is that the detaining authority, after being aware of the fact that the detenu has not moved any bail application, relied upon the order passed in CrI.M.P.No.2077 of 2019 and came to a conclusion that there is a likelihood of the detenu being let out on bail. The learned counsel for the petitioner submitted that the order that was relied upon by the detaining authority is not a similar case.

5. The learned Additional Public Prosecutor strongly opposed the Habeas Corpus Petition by filing his counter. He would further submit that the investigation has been completed and charge sheet has been filed and the same has been taken on file in S.C.No.510 of 2022 on the file of the First Additional District Judge, Tirunelveli, and the case stands posted on 23.12.2022 for appearance of the accused.

6. We have carefully went through the order passed in CrI.M.P.No. 2077 of 2019.

7. The Court, while granting bail in that case, taking into consideration the major portion of the investigation was completed and co-accused was already bail. The facts in that case, cannot be considered to be a similar case to the case on hand and hence, the detention order clearly suffers from non application of mind. 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 No.47/BCDFGISSSV/2022 dated 10.05.2022 passed by the

second respondent is set aside. The detenu, viz., Sudalaipandi, aged about 46 years, S/o.Ganapathi Thevar, 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

Index : Yes/No

Internet : Yes

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To:

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

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

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

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

HCP(MD)No.922 of 2022

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