



HCP(MD)No.959 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 28.10.2022

CORAM

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

H.C.P.(MD)No.959 of 2022

Gobi @ Gobikrishnan

... Petitioner /Detenu

/Vs./

- 1.The Additional Chief Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.
- 2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Dindigul District, Dindigul.
- 3.The Superintendent of Prison,
Madurai Central Prison,
Madurai District.

...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 connected with the detentin order of the second respondent in Detention Order NO.32/2022, dated 22.04.2022 and quash the same and to direct the respondents to produce the body or person of the detenu by name Gobi @ Gobikrishnan son of Perumal, aged about 28 years, now confining as “Goonda” at Madurai Central Prison, before this Court and set him at liberty forthwith.



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HCP(MD)No.959 of 2022

For Petitioner : Mr.R.Prakash
For Respondents : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

ORDER

J. NISHA BANU,J.

and

N. ANAND VENKATESH,J.

The petitioner is the detenu viz., Gobi @ Gobikrishnan, S/o.Perumal aged about 28 years. The detenu has been detained by the second respondent by his order in Detention Order No.32/2022, dated 22.04.2022 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 main that was urged by the learned counsel for the petitioner



HCP(MD)No.959 of 2022

is that the detaining authority in spite of being aware of the fact that the bail petition filed by the detenu was dismissed, took into consideration the order passed in Cr.M.P.No.971 of 2020 and came to the conclusion that it is a similar case and there is a likelihood of the detenu coming out on bail. The learned counsel for the petitioner submitted that the order relied upon by the detaining authority is not the similar case.

4. The learned counsel for the petitioner submitted that the detaining authority, without the availability of materials, cannot *ipso facto* satisfy himself regarding the imminent possibility of the detenu coming out on bail, merely on the ground that the accused, who are similarly placed have been granted bail.

5. The learned counsel for the petitioner relied upon the judgment of the Hon'ble Supreme Court in **Rekha v. State of Tamil Nadu ((2011) 5 SCC 244)** to substantiate his submission.

6. The learned Additional Public Prosecutor strongly opposed this Habeas Corpus Petition.



HCP(MD)No.959 of 2022

10.The Hon'ble Supreme Court has categorically held in the above judgment that the accused persons, who are similarly placed being granted bail by the same Court or by a higher Court, cannot be a ground for the detaining authority to come to such a subjective satisfaction without there being any materials to substantiate the same. This by itself reflects non application of mind on the part of the detaining authority. Therefore, the order of detention is liable to be interfered with.

11. In the result, the Habeas Corpus Petition is allowed and the order of detention in Detention Order No.32/2022, dated 22.04.2022, passed by the second respondent is set aside. The detenu, viz., Gobi @ Gobikrishnan, S/o.Perumal, aged about 28 years, is directed to be released forthwith unless his detention is required in connection with any other case.

(J.N.B.,J.) (N.A.V.,J.)
28.10.2022

Index : Yes/No
Internet : Yes
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HCP(MD)No.959 of 2022

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

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