



HCP(MD)No.989 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **02.12.2022**

CORAM

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

H.C.P.(MD)No.989 of 2022

Malar Rani

... Petitioner / Mother of the Detenue

Vs.

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

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

3.The Inspector of Police,
Sivagangai Sipcot Police Station,
Sivagangai District.
(Crime No.20 of 2022)

4.The Superintendent of Prison,
Central Prison,
Madurai.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to
issue a Writ of Habeas Corpus, directing the respondents to produce the



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person or body of detenu namely 'Kanith @ Rajkumar' aged about 23/2022 years, S/o. Kalimuthan before this Court, who is detained in the Central Prison, Madurai, in pursuant to the detention order passed by the second respondent in Cr.M.P.No.23/Goonda/2022 dated 20.05.2022 and to call for the records and quash the same and release the detenu at liberty forthwith.

For Petitioner : Mr.N.Mohideen Basha

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., Kanith @ Rajkumar' aged about 23 years, S/o. Kalimuthan. The detenu has been detained by the second respondent by his order in Cr.M.P.No.23/Goonda/2022 dated 20.05.2022 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 appearing for the petitioner submitted that the detaining authority had taken note of the bail order passed in CrI.M.P.(MD)No.1631 of 2021, dated 24.02.2021 and has come to a conclusion that there is a likelihood of the detenu being granted bail. According to the learned counsel appearing for the petitioner, inspite of request made for furnishing the translated copy of the said bail order, the same was not furnished.

4. The learned Additional Public Prosecutor strongly opposed the Habeas Corpus Petition by filing his counter. 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. On consideration of the submissions made on either side and upon perusal of the documents available on record, especially, the representation



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made by the petitioner, dated 10.06.2022, the petitioner had sought for the translated copy of the bail order in CrI.M.P.(MD)No.1631 of 2021, dated 24.02.2021 and the same has not been furnished. In view of the same, the detenu was not in a position to effectively make a representation. It is also seen that inspite of the request made by the detenu for furnishing translated copy of the bail order, the same has not been furnished. Therefore, on that score, the order of detention is liable to be interfered with by this Court. The impugned detention order is, therefore, liable to be quashed.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in Cr.M.P.No.23/Goonda/2022 dated 20.05.2022 passed by the second respondent is set aside. The detenu, viz., Kanith @ Rajkumar' aged about 23 years, S/o. Kalimuthan, 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.)
02.12.2022

Index : Yes/No
Internet : Yes
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M.S. RAMESH, J.

and

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