



HCP(MD)No.991 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **02.12.2022**

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

H.C.P.(MD)No.991 of 2022

Gangadevi

... Petitioner / Wife 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,
Kalayarkovil Police Station,
Sivagangai District.
(Crime No.37 of 2022)
- 4.The Superintendent of Prison,
Central Prison,
Madurai. ...Respondents



HCP(MD)No.991 of 2022

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, directing the respondents to produce the person or body of detenu namely, 'Dinesh @ Dineshkumar' aged about 28/2022 years, S/o.Kannan, before this court, who is now detained in the Central Prison, Madurai, in pursuant to the detention order passed by the second respondent in Cr.M.P.No.32/Goonda/2022 dated 22.05.2022 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 wife of the detenu viz., Dinesh @ Dineshkumar, aged about 28/2022 years, S/o.Kannan. The detenu has been detained by the second respondent by his order in Cr.M.P.No.32/Goonda/2022 dated 22.05.2022 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.



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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.No.3723 of 2019, dated 14.08.2019 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



HCP(MD)No.991 of 2022

and thus, there is no violation of the fundamental rights guaranteed under Articles 21 and 22 of the Constitution of India. He further submitted that investigation has been completed and charge sheet has been filed on 27.05.2022 on time in Spl.S.C.No.15 of 2022 before the Special Court, Sivagangai and the case is now at the stage of fixation of date for trial.

5. On consideration of the submissions made on either side and upon perusal of the documents available on record, especially, the representation made by the petitioner, the petitioner had sought for the translated copy of the bail order in CrI.M.P.No.3723 of 2019, dated 14.08.2019 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.32/Goonda/2022 dated 22.05.2022 passed by the



HCP(MD)No.991 of 2022

second respondent is set aside. The detenu, viz., Dinesh @ Dineshkumar, aged about 28/2022 years, S/o.Kannan, 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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To:

- 1.The Additional Chief Secretary to the Government,
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Central Prison, Madurai.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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HCP(MD)No.991 of 2022

M.S. RAMESH, J.

and

N. ANAND VENKATESH, J.

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