



HCP(MD)No.999 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.999 of 2022

Maruthupandian

... Petitioner /Brother of the detenu

Vs.

1.The State of Tamil Nadu,
Rep by Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai-9.

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

3.The Superintendent,
Central Prison, Madurai.

4.The Inspector of Police,
Thirupuvanam Town Police Station,
Sivagangai District. ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, calling for the records relating to the Detention Order passed by the second respondent in Detention Order on 22.05.2022 in Cr.M.P.No.30/Goonda/2022 and to quash the same and direct



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the respondents to produce the body or person of the petitioner's brother Kannan, S/o.Gopal @ Nandha Gopal, aged about 18 years, before this Court and set him at liberty, now detained at Central Prison, Madurai.

For Petitioner :Ms.S.Prabha

For Respondents :Mr.A.Thiruvadikumar,
Additional Public Prosecutor

ORDER

(Order of the Court was made by **N. ANAND VENKATESH, J.**)

The petitioner is the brother of the detenu viz. Kannan, S/o.Gopal @ Nandha Gopal, aged about 18 years. The detenu has been detained by the second respondent by his order in Detention Order Cr.M.P.No. 30/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.

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.



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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.

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 bail application filed by the detenu was dismissed, came to a conclusion that there is a likelihood of the detenu being let out on bail, by taking into consideration the order passed in CrI.M.P.No.3209 of 2019. 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 counter.

6. We have carefully went through the order passed in CrI.M.P.No. 3209 of 2019.



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7. That was a case where the accused therein was granted bail on the ground that he has already suffered incarceration for nearly 55 days and the entire investigation was completed except receipt of scientific reports. The order that was relied upon by the detaining authority cannot be considered to be a similar case, since the investigation was pending in this case and the bail petition filed by the detenu was also dismissed. 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 Cr.M.P.No.30/Goonda/2022 dated 22.05.2022 passed by the second respondent is set aside. The detenu, viz., Kannan, S/o.Gopal @ Nandha Gopal, aged about 18 years, 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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- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
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