

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **01.12.2022**

CORAM

**THE HON'BLE MR JUSTICE M.S.RAMESH**

AND

**THE HON'BLE MR JUSTICE N. ANAND VENKATESH**

**H.C.P.(MD)No.1012 of 2022**

V.Nandhini

... Petitioner / Wife of the Detenu

**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 District Collector and District Magistrate,  
Thoothukudi District,  
Thoothukudi.

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 in H.S.(M) Confdl.No.100 of 2022, dated 18.05.2022 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, the petitioner's husband ie., Jebaraj, son of Yovan Nadar, aged about 27 years, 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 wife of the detenu viz., Jebaraj, son of Yovan Nadar, aged about 27 years. The detenu has been detained by the second respondent by his order in H.S.(M) Confdl.No.100 of 2022, dated 18.05.2022, 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 bail petition filed by the detenu was pending, took into consideration the order, dated 23.08.2021, passed in Cr.M.P.No.3186 of 2021 in favour of one Shenbagaraj 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. Hence, the learned counsel submitted that it is clearly a non-application of mind on the part of the detaining authority.

5. The learned Additional Public Prosecutor strongly opposed the Habeas Corpus Petition by filing his counter. He would submit that though there was delay in considering the representation, on that score alone, the impugned detention order cannot be quashed. 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.

6. We have carefully considered the submissions made on either side and also materials available on record.

7. We have carefully went through the order, dated 23.08.2021, passed in CrI.M.P.No.3186 of 2021 and it is seen that the bail was granted to the said Shenbagaraj, after took into consideration the fact that one property was also recovered and the period of incarceration already suffered by the accused therein, was also taken into consideration. In the present case, there are four adverse cases against the detenu and hence, the order that was relied upon by the detaining authority cannot be considered to be a similar case and therefore, the detention order clearly suffers from non application of mind on the part of the detaining authority to come to the subjective satisfaction.

8. In view of the above, the detention order suffers from non-application of mind on the part of the detaining authority and the same is liable to be interfered with by this Court. The impugned detention order is, therefore, liable to be quashed.

9. In the result, the Habeas Corpus Petition is allowed and the order of detention in H.S.(M) Confdl.No.100 of 2022, dated 18.05.2022, passed by the second respondent is set aside. The detenu, viz., Jebaraj, son of Yovan Nadar, aged about 27 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.)**  
**01.12.2022**

Index : Yes/No  
Internet : Yes  
RM

**To:**

- 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,  
Thoothukudi District,  
Thoothukudi.
- 3.The Superintendant of Prison,  
Central Prison,  
Palayamkottai,  
Tirunelveli.
- 4.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

HCP(MD)No.1012 of 2022

**M.S.RAMESH,J.**

and

**N. ANAND VENKATESH,J.**

RM

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