

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **30.11.2022**

CORAM

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

H.C.P.(MD)No.1025 of 2022

Mithunaroorbi

... Petitioner / Wife of the Detenue

Vs.

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

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

3.The Superintendant of Prison,  
Central Prison,  
Tiruchirapalli.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, calling for the records pertaining to the impugned detention order passed by the 2nd respondent made in his proceedings in Cr.MP.No.15 of 2022 dated 12.05.2022 in detaining the detenue U/s.2(f) of the TN Act 14/1982 as a Goonda and quash the same and direct the respondents to produce the detenue namely Soonni Kannan @

Sudharsan, S/o.Subbiah, Male, aged 41 years, who is detained at CEntral Prison, Trichy, before this Court and set him at liberty.

For Petitioner : Mr.K.M.Karunakaran

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., Soonni Kannan @ Sudharsan, S/o.Subbiah, aged 41 years. The detenu has been detained by the second respondent by his order in Cr.MP.No.15 of 2022 dated 12.05.2022 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 many grounds have been raised in the petition, learned counsel appearing for the petitioner, confines his argument only in respect of non-application of mind on the part of the detaining authority in passing the order of detention. According to the learned counsel appearing for the petitioner, the sponsoring authority has stated in the Arrest Memo at page No.88 of the Booklet furnished to the detenu, that the arrest of the detenu has been intimated to the sister of the detenu. However, there is no material to substantiate the service of arrest intimation stated to have been made to the sister of the detenu. Hence, it is stated that the Detaining Authority has passed the impugned detention order in total non-application of mind.

4. Per contra, the learned Additional Public Prosecutor would submit that the arrest of the detenu has been intimated to the sister of the detenu through SMS.

5. However, we find that there are no material particulars to substantiate the same. This Court has also taken the similar view in such cases that the detention order cannot be sustained.

6. As evidenced from the document in page No.88 of the Booklet furnished to us, a mere endorsement is made by the authorities to the effect that the arrest intimation has been informed to the sister of the detenu through SMS, but, no materials have been furnished to substantiate that the said intimation was sent through Tapal or Registered post or as per the procedure laid down. Therefore, non-furnishing of details given to the relatives of the detenu would vitiate the order of detention and the same cannot be sustained in the eye of law.

7. It is a trite law that personal liberty protected under Article 21 is so sacrosanct and so high in the scale of Constitutional values that it is the obligation of the detaining authority to show that the impugned detention meticulously accords with the procedure established by law. Preventive detention is preventive and not punitive. When ordinary law of the land is sufficient to deal with, taking recourse to the preventive detention law is illegal. 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.MP.No.15 of 2022 dated 12.05.2022 passed by the second respondent is set aside. The detenu, viz., Sooni Kannan @ Sudharsan, S/o.Subbiah, aged 41 years, is directed to be released forthwith unless her detention is required in connection with any other case.

**(M.S.R.,J.) (N.A.V.,J.)**  
**30.11.2022**

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

and

**N. ANAND VENKATESH,J.**

Sm

**To:**

- 1.The Additional Chief Secretary to Government,  
Home, Prohibition and Excise Department,  
Secretariat, Chennai-600 009.
- 2.The District Collector and District Magistrate,  
Perambalur District,  
Perambalur.
- 3.The Superintendant of Prison,  
Central Prison,  
Tiruchirapalli.
- 4.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

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