



HCP(MD)No.1270 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 23.09.2022

CORAM

**THE HON'BLE MRS JUSTICE J. NISHA BANU
AND
THE HON'BLE MR JUSTICE N. ANAND VENKATESH**

H.C.P.(MD)No.1270 of 2022

Ananthakumar @
Ettu Kannan

.. Petitioner /detenu

Vs.

1.The Principal Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai-600 009.

2.The Commissioner of Police,
Office of the Commissioner of Police,
Madurai City, Madurai.

3.The Superintendent of Prison,
Madurai Central Prison,
Madurai District.

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the entire records connected with the detention order of the Respondent No.2 in No.80/BCDFGISSSV/2021 dated



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27.12.2021 and quash the same and direct the respondents to produce the body or person of the detenu by name Ananthakumar @ Ettu Kannan, S/o.Madasamy, aged about 22 years, now detained as “Goonda” at Madurai Central Prison before this Court and set him at liberty forthwith.

For Petitioner : M/s.R.Alagumani
For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

J. NISHA BANU,J.
and
N. ANAND VENKATESH,J.

The petitioner is the detenu viz., Ananthakumar @ Ettu Kannan, S/o.Madasamy, aged about 22 years. The detenu has been detained by the second respondent by his order in No.80/BCDFGISSSV/2021 dated 27.12.2021 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 the detaining authority has taken note of the fact that the bail application filed by the detenu was dismissed and there was no bail petition pending on the date of passing of the detention order. The learned counsel further submitted that similar order that was relied upon by the detaining authority in CrI.M.P.No.6009 of 2021 dated 06.12.2021, pertains to the order passed in favour of the co-accused. In spite of the order passed in favour of the co-accused, bail petition that was filed by the detenu in CrI.M.P.No.6499 of 2021 was dismissed subsequently on 17.12.2021. Therefore, the learned counsel submitted that the same clearly reflects non-application of mind.

4. Heard the learned Additional Public Prosecutor appearing on behalf of the respondents.



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5. It is seen that the detaining authority has taken note of the fact that the bail application filed by the detenu was dismissed on 17.12.2021. There was no bail application pending on the date of passing of the detention order and the detaining authority has clearly mentioned that the detenu is taking steps to file bail application before the concerned Court. However, there is no material to support the same. That apart, the order passed in CrI.M.P.No. 6009 of 2021 dated 06.12.2021 for the co-accused in the ground case was on 06.12.2021. Even though bail order was passed in favour of the co-accused, the bail application that was filed by the detenu in the ground case was dismissed on 17.12.2021. Therefore, the Court has taken into consideration the bail granted to the co-accused and in spite of the same dismissed the bail application of the detenu. Hence, bail order granted in favour of the co-accused cannot be considered to be a similar case and it clearly reflects non-application of mind on the part of the detaining authority. 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 No.80/BCDFGISSSV/2021 dated 27.12.2021 passed by the



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second respondent is set aside. The detenu, viz., Ananthakumar @ Ettu Kannan, S/o.Madasamy, aged about 22 years, is directed to be released forthwith unless his detention is required in connection with any other case.

(J.N.B.,J.) (N.A.V.,J.)
23.09.2022

Index : Yes/No

Internet : Yes

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To

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- 2.The Commissioner of Police,
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- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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