



*H.C.P.(MD)No.1288 of 2022*

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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 28.11.2022**

**CORAM:**

**THE HONOURABLE MR.JUSTICE M.S.RAMESH**

**and**

**THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH**

**H.C.P.(MD)No.1288 of 2022**

Dhanalakshmi

.. Petitioner

**Vs.**

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

2.The Commissioner of Police,  
Tiruchirappalli City,  
Tiruchirappalli.

3.The Superintendent of Prison,  
Central Prison,  
Tiruchirappalli.

.. Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the records pertaining to the impugned Detention Order passed by the respondent No.2 made in his proceedings in C.No.62/Detention/C.P.O/T.C/2022, dated 02.05.2022 in detaining the detenu under Section 2(f) of the Tamil Nadu Act 14 of 1982 as a "Goonda" and quash the same and direct the respondents to produce the detenu namely, Sakthivel, son of Balasubramanian, Male, aged about 47 years, who is detained in Central Prison, Tiruchirappalli, before this Court and set him at liberty.

For Petitioner : Mr.A.Joseph Jerry  
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 mother of the detenu viz., Sakthivel, son of Balasubramanian, aged about 47 years. The detenu has been detained by



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the second respondent by his order in C.No.62/Detention/C.P.O/T.C/2022, dated 02.05.2022, 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 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 detenu did not file any bail petition either in the adverse cases or in the ground case, and relying upon the order passed in CrI.M.P.No.2770 of 2021, come to a conclusion that there is a likelihood of the detenu coming out on bail. The learned counsel for the petitioner submitted that the order relied upon by the detaining authority is not a similar case and therefore, the



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detention order suffers from non-application of mind on the part of the detaining authority.

4. 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.

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

6. In the present case, there are two adverse cases and one ground case and all are in same nature. The detaining authority was aware of the fact that the detenu did not file any bail petition in any of the cases. The detaining authority relied upon the order passed in CrI.M.P.No.2770 of



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2021 and come to a conclusion that there is a likelihood of the detenu coming out on bail.

7. On carefully going through the order, it is seen that the accused therein was granted bail on the ground that the main accused was granted Anticipatory Bail by the High Court and the accused had already suffered incarceration for a long period. Infact the order passed in CrI.M.P.No. 2770 of 2021 cannot be taken to be a similar case and it, therefore, clearly reflects the 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 C.No.62/Detention/C.P.O/T.C/2022, dated 02.05.2022,



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passed by the second respondent is set aside. The detenu, viz., Sakthivel, son of Balasubramanian, aged about 47 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.)**

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

**and**

**N.ANAND VENKATESH, J.**

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