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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.1309 of 2022

Baranikumar ... Petitioner /Detenue

Vs.

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

2.The Commissioner of Police,
O/o.Commissioner of Police,
Tiruchirappalli City.

3.The Inspector of Police,
Ariyamangalam Police Station,
Trichy City,
(Crime No.454 of 2022)

4.The Superintendant of Prison,
Central Prison,
Tiruchirappalli City. ...Respondents

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PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, directing the respondents to produce the person or body of detenu namely “Baranikumar”, aged about 21/2022 years, son of Marimuthu before this Court, who is now detained in the Central Prison, Trichirappalli in pursuant to the detention order passed by the 2nd respondent in C.No.66/Detention/C.P.O/T.C/2022 dated 12.05.2022 and to call for the records and quash the same and release the detenu at liberty forthwith.

For Petitioner : Mr.A.Mohamed Hashim
For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

M.S.RAMESH,J.

and

N. ANAND VENKATESH,J.

The petitioner is the detenu viz., Baranikumar”, aged about 21/2022 years, son of Marimuthu. The detenu has been detained by the second respondent by his order in C.No.66/Detention/C.P.O/T.C/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.

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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 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 no bail application was filed by the detenu, relied upon the order passed in Cr.M.P.No.2827 of 2015 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.

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5. The learned Additional Public Prosecutor strongly opposed the Habeas Corpus Petition by filing his counter. He would further submit that the investigation has been completed and charge sheet has been filed and it has been taken on file in C.C.No.675 of 2022 on the file of the learned Judicial Magistrate NoVI, Trichy.

6.We have carefully went through the order passed in Crl.M.P.No.414 of 2020.

7.In that case, there is no indication that there are previous cases against the accused therein. That apart, the Court had also taken into consideration the incarceration suffered by the detenu. In the present case, there are four adverse cases against the detenu apart from the ground case. Hence, the order that was relied upon by the detaining authority cannot be considered to be a similar case. In view of the above, the detention order suffers from non application of mind and the same is liable to be interfered with by this Court. The impugned detention order is, therefore, liable to be quashed.

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8.In the result, the Habeas Corpus Petition is allowed and the order of detention in C.No.66/Detention/C.P.O/T.C/2022 dated 12.05.2022 passed by the second respondent is set aside. The detenu, viz., Baranikumar", aged about 21/2022 years, son of Marimuthu, 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.)
30.11.2022

Index : Yes/No
Internet : Yes
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To:

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Fort St.George,
Secretariat, Chennai-600 009.
2.The Commissioner of Police,
O/o.Commissioner of Police,
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4.The Superintendant of Prison,
Central Prison,
Tiruchirappalli City.
5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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M.S.RAMESH,J.

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