

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **14.10.2022**

CORAM

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

H.C.P.(MD)No.1375 of 2022

A.Mani

... Petitioner /Detenue

Vs.

1.The State of Tamil Nadu,
Rep. by the Additional Chief Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat, Chennai-600 009.

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

3.The Superintendent,
Central Prison,
Tiruchirappalli.

...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 detention order passed by the second respondent in P.D.No.31/2022 dated 05.04.2022 and quash the same and direct the respondents to produce the

person or body of the detenu Mani, S/o. Angappan, aged 37 years, presently confined in Central Prison, Tiruchirappalli before this Court and set him at liberty.

For Petitioner : Mr.M.S.Sureshkumar

For Respondents : Mr.A.Thiruvadikumar

Additional Public Prosecutor

ORDER

J. NISHA BANU,J.

and

N. ANAND VENKATESH,J.

The petitioner is the detenu viz., Mani, S/o.Angappan, aged about 37 years. The detenu has been detained by the second respondent by his order in P.D.No.31/2022 dated, 05.042022 holding him to be a "Goonda", as contemplated under Section 2(f) of the 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 the detaining authority, after having taken note of the fact that the bail application that was filed by the detainee was dismissed, took into consideration the order passed in CrI.M.P.No.1895 of 2018 and came to the conclusion that there is a likelihood of the detainee being granted bail, since the bail has been granted in similar case. The learned counsel submitted that the order that was relied upon by the detaining authority is not a similar case and hence, the detention order suffers from non-application of mind.

4. The learned Additional Public Prosecutor strongly opposed the Habeas Corpus Petition by filing his counter.

5. Insofar as the main ground that was urged by the learned counsel for the petitioner, we have carefully gone through the order passed in CrI.M.P.No.1895 of 2018. We find that bail was granted in that case on the ground that there was no previous case against the accused therein and the

substantial portion of the investigation was completed and also considering the long incarceration suffered by the accused therein. The facts in the present case reveal that there are four adverse cases against the detenue and the ground case is under Section 394 IPC r/w 397 IPC. Hence, the bail order that was relied upon by the detaining authority cannot be treated as similar case and it clearly reflects non-application of mind. 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 P.D.No.31/2022, dated 05.04.2022, passed by the second respondent is set aside. The detenu, viz., Mani, S/o.Angappan, aged about 37 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.)
14.10.2022

Index : Yes/No
Internet : Yes
ta/Ns

To:

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

HCP(MD)No.1375 of 2022

J. NISHA BANU,J.

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