



HCP(MD)No.1376 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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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.1376 of 2022

Saranya

... Petitioner /Sister of the Detenu

Vs.

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

2.The District Collector and District Magistrate,
Office of the Collectorate,
Theni, Theni District.

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

...Respondents

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 detenue namely Manoj,S/o.Kanagaraj, aged about 27 before this Court, who is now detained in the Central Prison, Madurai, in pursuant to the detention order passed by the second respondent in



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Detention Order No.17/2022 dated, 16.03.2022 and to call for the records and quash the same and set the detenu at liberty forthwith.

For Petitioner : Mr.S.Arunnithy

For Respondents : Mr.A.Thiruvadikumar

Additional Public Prosecutor

ORDER

J. NISHA BANU,J.

and

N. ANAND VENKATESH,J.

The petitioner is the sister of the detenu viz., Manoj, S/o.Kanagaraj, aged about 27 years. The detenu has been detained by the second respondent by his order in Detention Order No.17/2022 dated, 16.03.2022 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 no bail petition was filed as on the date of passing of the detention order. However, the detaining authority came to the conclusion that there is a possibility of the detenu coming out on bail, without any supporting materials. Hence, the learned counsel for the Petitioner submitted that 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, and on instructions, submitted that the investigation was completed and final report was filed and it was taken on file by the Mahila Court, Theni, in P.R.C.No.9 of 2022. It was further submitted that the case stands posted for hearing on 27.10.2022.

5. Insofar as the main ground that was urged by the learned counsel for the petitioner, we have carefully considered the submissions. It is seen from the detention order that the detaining authority was aware of the fact



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that no bail application was filed as on the date, when the detention order was passed. The detaining authority, without reference to any materials regarding the satisfaction about the likelihood of the detenu coming out on bail, has made a vague submission that there is a possibility of the detenu coming out on bail. This finding rendered by the detaining authority clearly suffers from non-application of mind and it is not supported by any material. Hence, the detention order suffers from illegality. 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 Detention Order No.17/2022 dated, 16.03.2022, passed by the second respondent is set aside. The detenu, viz., Manoj, S/o.Kanagaraj, aged about 27 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
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- 4.The Additional Public Prosecutor,
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