



HCP(MD)No.1377 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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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.1377 of 2022

Alagumani

... Petitioner /Mother of the
Detenue

Vs.

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

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

3.The Superintendant,
Central Prison,
Trichy.

4.The Inspector of Police,
Srirangam Police Station,
Trichy District.

...Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, calling for the records relating to the Detention Order passed by the 2nd respondent in Detention Order C.No. 67/detention/C.P.O/T.C/2022 dated 12.05.2022 and to quash the same and direct the respondents to produce the body or person of the detenu, Praveenkumar, Son of Ravichandran, aged about 25 years, before this Court and set him at liberty, now detained at Central Prison, Triuchirappalli.

For Petitioner : Mr.K.Kumatesan

For Respondents : Mr.A.Thiruvadikumar

Additional Public Prosecutor

ORDER

M.S.RAMESH,J.

and

N. ANAND VENKATESH,J.

The petitioner is the mother of the detenu viz., Praveenkumar, aged about 25 years, son of Ravichandran. The detenu has been detained by the second respondent by his order in Detention Order C.No. 67/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.



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 the bail application filed by the detenu was pending, relied upon the order passed in Cr.M.P.No.30 of 2022 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 P.R.C.No.27 of 2022 on the file of the learned Judicial Magistrate, Srirangam.

6. We have carefully went through the order passed in CrI.M.P.No.30 of 2022.

7. In that case, where no grievous injuries were sustained by the victim and the injured was also discharged from the hospital and there is no indication that there was any previous case against the accused therein. In the present case, the injured has sustained serious injuries and there was also previous case against the detenu. 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 Detention Order C.No.67/detention/C.P.O/T.C/2022 dated 12.05.2022 passed by the second respondent is set aside. The detenu, viz., Praveenkumar, aged about 25 years, son of Ravichandran, 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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2. The Commissioner of Police,
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5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
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