



WEB COPY



HCP(MD)No.1481 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.11.2022

CORAM

**THE HON'BLE MR JUSTICE M.S.RAMESH
AND
THE HON'BLE MR JUSTICE N. ANAND VENKATESH**

H.C.P.(MD)No.1481 of 2022

A.Janani

.. Petitioner / Wife
of the detenu

Vs.

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

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

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

.. Respondents

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 order of detention dated 06.05.2022 passed by the 2nd respondent in No. 20/BCDFGISSSV/2022 and quash the same and produce the detenu Ajaykumar, aged about 23 years, S/o.Silendran, detained now at the Central Prison, Madurai, before this Court and set him at liberty.



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For Petitioner : Mr.S.Narayanan
For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

(Order of the Court was made by N. ANAND VENKATESH,J.)

The petitioner is the wife of the detenu viz., Ajaykumar aged about 23 years, S/o.Silendran. The detenu has been detained by the second respondent by his order in 20/BCDFGISSSV/2022 dated 06.05.2022 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 the detaining authority being aware



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of the fact that bail application filed by the detenu was pending and since in Crl.M.P.No.1352 of 2022 bail was granted on 28.05.2018, the detaining authority came to a conclusion that there is likelihood of the detentu being let out on bail and therefore, the learned counsel submitted that the similar case that has been relied upon by the detaining authority is not similar and hence, the detention order is liable to be interfered with.

4. The learned Additional Public Prosecutor strongly opposed the Habeas Corpus Petition by filing his counter. He would further submit that investigation was completed and charge sheet was filed within the stipulated period and the case is pending in S.C.No.310/2022 before the Principal Sessions Judge, Madurai.

5. On carefully going through the booklet and the detention order, it is seen that the detaining authority had taken note of the fact that there is likelihood of the detenu being let out on bail, since bail was granted in Crl.M.P.No.1352/2018 on 28.05.2018. However, the similar case that has been relied upon by the detaining authority is not similar to that of the present case. In that case the Court took into consideration the long



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incarceration suffered by the accused therein and there is absolutely no reference as to whether any previous case against the accused in that case.

In the present case, there are three adverse cases and one ground case against the detenu and the case in hand cannot be considered to be similar to that of the one that is referred in the detention order.

6. 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.

7. In the result, the Habeas Corpus Petition is allowed and the order of detention in No.20/BCDFGISSSV/2022 dated 06.05.2022 passed by the second respondent is set aside. The detenu, viz., Ajaykumar, S/o.Silendran aged about 23 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.)
29.11.2022

Internet : Yes
RR



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To

1.The 1.The Principal Secretary to Government,
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Secretariat Chennai-600 009.

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

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

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.S.RAMESH, J.
and
N. ANAND VENKATESH, J.

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