



HCP(MD)No.1494 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 21.12.2022

Pronounced on : 23.12.2022

CORAM

**THE HON'BLE DR. JUSTICE G.JAYACHANDRAN  
AND  
THE HON'BLE MR JUSTICE SUNDER MOHAN**

**H.C.P.(MD)No.1494 of 2022**

B.Rasi

.. Petitioner / Mother of Detenu

Vs.

1.State of Tamil Nadu

Represented by Additional Chief Secretary to Government,  
Home, Prohibition and Excise Department,  
Secretariat,  
Chennai-600009.

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

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

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, calling for the entire records in detention order in



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Cr.M.P.No.33 GOONDA / 2022 dated 26.05.2022 on the file of the second respondent herein and set aside the same as illegal and direct the respondents to produce the body or person of the petitioner's son namely Packiyaraj, S/o.Baskaran, male aged 35 years, who is detained in Central Prison, Madurai, before this Court and set him at liberty and thus render justice.

For Petitioner :Mr.G.Karuppasamy Pandian  
for Mr.NA.Manimaran

For Respondents :Mr.A.Thiruvadikumar  
Additional Public Prosecutor

### **ORDER**

**SUNDER MOHAN, J.**

The mother of the detenu has filed the above Habeas Corpus Petition challenging the order of detention passed in Cr.M.P.No.33 GOONDA / 2022 dated 26.05.2022 by the second respondent herein branding the petitioner's son as "Goonda".

2. The detention order was passed by the second respondent herein stating that the detenu had one adverse case in Crime No.787 of 2021 under Section 147, 148, 341, 294(b), 323, 363 IPC on the file of Natham Police



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Station. The ground case said to have taken place on 22.04.2022 at 19.00 hours, the detenu was involved in the offences under Section 364 A, 365, 394 r/w 397 IPC in Crime No.54 of 2022 on the file of Kallal Police Station.

3. The learned counsel for the petitioner submitted that the detention order is liable to be quashed since the translated version of the remand order was not furnished to the detenu. The learned counsel further submitted that the similar case relied upon by the detaining authority for arriving at the subjective satisfaction of the detenu coming out on bail was not a similar case as the accused in the case relied upon by the detaining authority was charged for the offence under Section 363 r/w 397 IPC and had one previous case for the offence under 294(b), 323, 324 and 506(ii) of IPC. The offences alleged against the detenu in the ground case and the adverse case are not the same as in the case relied upon by the detaining authority. Hence, the learned counsel submitted that the subjective satisfaction of the detaining authority is vitiated and the detention order is liable to be quashed.



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4. The learned Additional Public Prosecutor appearing for the respondents submitted that it cannot be said that the bail order relied upon by the detaining authority in respect of an accused in Crime No.33 of 2022 for the offence under Section 363 r/w 397 IPC is not similar to the case of the detenu. The accused therein filed Cr.M.P.No.1078 of 2022 before the Principal District and Sessions Court, Ramanathapuram and bail was granted in which it is stated that he was involved in another case. Therefore, the subjective satisfaction of the detaining authority cannot be faulted stating that it was not similar to the detenu's case.

5. 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.

6. We have perused the order passed by the learned Principal District and Sessions Judge, Ramanathapuram in Cr.M.P.No.1078 of 2022 in respect of an accused in Crime No.33 of 2022 on the file of the Thankachimadam Police Station. There, the accused was charged for the offence under Section 363 r/w 397 IPC. Further the previous case in which the accused was involved in that case pertain to offences under Section 294(b), 323, 324



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and 506(ii) IPC. However, in the instant case, we find that the detenu was involved in the offences under Section 147, 148, 341, 294(b), 323 and 363 IPC in the adverse case and for the offences under Section 364 (A), 365, 394 r/w 397 IPC. A perusal of the offences for which the detenu is charged could clearly show that the similar case mentioned by the detaining authority is not similar and therefore, the detention order suffers from non-application of mind as regards the subjective satisfaction of the detaining authority on the possibility of the detenu coming out on bail.

7. For the above reasons, the order of detention in Cr.M.P.No.33 GOONDA / 2022 dated 26.05.2022 on the file of the second respondent herein is set aside and the Habeas Corpus Petition is allowed.

8. The detenu, Packiyaraj, S/o.Baskaran, male aged about 35 years, who is detained at Central Prison, Madurai, is directed to be released forthwith unless his detention is required in connection with any other case.

[G.J.,J.] [S.M.,J]  
23.12.2022

Index:Yes/No  
Internet:Yes/No  
Lm



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To

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4. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
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**DR.G.JAYACHANDRAN,J.**  
and  
**SUNDER MOHAN,J.**

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Pre-Delivery Order made in  
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23.12.2022