



HCP(MD)No.1558 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 30.11.2022

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

H.C.P.(MD)No.1558 of 2022

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... Petitioner /Mother of the
Detenue

Vs.

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

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

3.The Superintendant of Prison,
Central Prison,
Trichy.

...Respondents

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 C.No.



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68/Detention/C.P.O/T.C/2022 dated 13.05.2022 and quash the same and direct the respondents to produce the detenu Thiru.Manikandan, Son of Prakash, Male aged 22, who is detained at Central Prison, Trichy, before this Court and set him at liberty.

For Petitioner : Mr.B.Kithiyon

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., Manikandan, aged about 22 years, son of Prakash. The detenu has been detained by the second respondent by his order in C.No.68/Detention/C.P.O/T.C/2022 dated 13.05.2022 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 no bail petition was filed by the detenu, relied upon the order passed in Cr.M.P.No.4529 of 2021 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.

6. We have carefully went through the order passed in CrI.M.P.No. 4529 of 2021.

7. In that case where bail was granted to the accused therein on the ground that in almost all the cases there was verbatim repetition of the allegations and hence, the Court doubted the very genuineness of the case. The order that was relied upon by the detaining authority cannot be considered to be a similar case, since the adverse case against the detenu was for offences under Sections 294(b), 323, 326 and 506(ii)IPC and there is a specific allegation in this case as to the manner in which the detenu had threatened and taken money from the victim. 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 C.No.68/Detention/C.P.O/T.C/2022 dated 13.05.2022 passed by the second respondent is set aside. The detenu, viz., Manikandan, aged about 22 years, son of Prakash, 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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To:

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

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

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

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



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