



HCP(MD)No.1659 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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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.1659 of 2022

S.Hameetha Banu

.. Petitioner /  
grandmother of the detenu

Vs.

1.The State rep. by  
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 detention order passed by the 2<sup>nd</sup> respondent in No.21/BCDFGISSSV/2022 dated 09.05.2022 and quash the same and produce the detenu Yasar Arapath, aged about 20 years, S/o.Late.Beer Oli, who has been termed as Goonda and now confined in Central Prison, Madurai, before this Court and set him at liberty.



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For Petitioner : Mr.L.Shaji Chellan

For Respondents : Mr.A.Thiruvadikumar  
Additional Public Prosecutor

### **ORDER**

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

The petitioner is the grandmother of the detenu viz., Yasar Arapath aged about 20 years, S/o.Late Beer Oli. The detenu has been detained by the second respondent by his order in 21/BCDFGISSSV/2022 dated 09.05.2022 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 though no bail application was filed by the detenu, the detaining authority came to a conclusion that there is likelihood of the detenu being let out on bail since in CrI.M.P.No.6578/2021 bail was granted on 06.01.2022 to the accused therein 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 in PRC No.285/2022 before the Judicial Magistrate, No.I, Madurai and the case is posted on 09.12.2022 for the appearance of the accused.

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 in similar case, bail was granted in CrI.M.P.No.6578/2021 on 06.01.2022. However, the similar case that has been relied upon by the detaining authority is not similar to that of



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the present case. In that case, the Court took into consideration the fact that the injured has been discharged and investigation has been completed. However, in the present case, no one sustained injury and investigation is also pending and hence, 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.21/BCDFGISSSV/2022 dated 09.05.2022 passed by the second respondent is set aside. The detenu, viz., Yasar Arapath, S/o.Late. Beer Oli aged about 20 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 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.

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.**

**RR**

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