



H.C.P.(MD)No.1986 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

and

THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH

H.C.P.(MD)No.1986 of 2022

Samuvel @ Kerala

.. Petitioner/Detenu

Vs.

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

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

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

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to
issue a writ of Habeas Corpus, calling for the entire records connected with



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the detention order of the second respondent in No.32/BCDFGISSSV/2022 dated 31.05.2022 and quash the same and direct the respondents to produce the body or person of the detenu by name Samuvel @ Kerala, son of Joseph, aged bout 21 years, now detained as "Goonda" now confined at Madurai Central Prison, before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani

For Respondents : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

ORDER

[Order of the Court was made by **N.ANAND VENKATESH, J.**]

The petitioner is the detenu viz., Samuvel @ Kerala, son of Joseph, aged bout 21 years. The detenu has been detained by the second respondent by his order in No.32/BCDFGISSSV/2022 dated 31.05.2022, 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.



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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 after being aware of the fact that the bail petition filed by the detenu was dismissed and came to a conclusion that there is a likelihood of the detenu being let out on bail by relying upon the order passed in CrI.M.P.No.1996 of 2019. The learned counsel further submitted that the order relied upon by the detaining authority is not a similar case. Hence, it is clearly a non-application of mind on the part of the detaining authority.

4. The learned Additional Public Prosecutor strongly opposed the Habeas Corpus Petition by filing his counter. He would submit that though there was delay in considering the representation, on that score



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alone, the impugned detention order cannot be quashed. According to the learned Additional Public Prosecutor, no prejudice has been caused to the detenu and thus, there is no violation of the fundamental rights guaranteed under Articles 21 and 22 of the Constitution of India.

5. The learned Additional Public Prosecutor further submitted that the accused was arrested in this case on 11.04.2022 and the investigation was completed and final report was filed on 20.05.2022 in time and it was taken on file by the Judicial Magistrate No.II, Madurai in P.R.C.No.214 of 2022.

6. We have carefully gone through the order passed in CrI.M.P.No.1996 of 2019. That was a case where the previous case as against the accused wherein pertained to the year 2015 and 2016 and the same was taken into consideration by the concerned court. In the present case, the adverse case is of the year 2021 and the ground case is of the year 2022 and the bail petition that was filed by the detenu was already dismissed. Hence, the order that was relied upon by the detaining authority



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cannot be considered to be a similar case and it, therefore, clearly reflects the non-application of mind on the part of the detaining authority to come to the subjective satisfaction.

7. In view of the above, the detention order suffers from non-application of mind on the part of the detaining authority and the same is liable to be interfered with by this Court. The impugned detention order is, therefore, liable to be quashed.

8. In the result, the Habeas Corpus Petition is allowed and the order of detention in No.32/BCDFGISSSV/2022 dated 31.05.2022, passed by the second respondent is set aside. The detenu, viz., Samuvel @ Kerala, son of Joseph, aged bout 21 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.)
02.12.2022

Index : Yes/No
Internet : Yes
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M.S.RAMESH,J.

and

N.ANAND VENKATESH, J.

Ns

To

- 1.The Principal Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-600 009.
- 2.The Commissioner of Police,
Office of the Commissioner of Police,
Madurai City, Madurai.
- 3.The Superintendant of Prison,
Madurai Central Prison,
Madurai.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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