



WEB COPY



H.C.P.No.914 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.01.2023

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH
AND
THE HONOURABLE Mr.JUSTICE N.ANAND VENKATESH

H.C.P.No.914 of 2022

M.Fathima

.. Petitioner

Vs.

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

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

3.The Superintendent of Police,
Chengelpet District, Chengelpet.

4.The Additional Superintendent,
Central Prison, Puzhal II,
Chennai.

5.The Inspector of Police,
E-1, Mamallapuram Police Station,
Chengelpet District.

.. Respondents



H.C.P.No.914 of 2022

Petition filed under Article 226 of the Constitution of India, praying

to issue a WRIT OF HABEAS CORPUS to produce the body of the petitioner's son viz. Magbul Basha @ Bablu, S/o.Mohammedkhan, aged about 23 years, who is detained in third respondent/the Additional Superintendent, Central Prison, Puzhal II, Chennai, before this Court and set him at liberty forthwith by calling for the records pursuant to the detention order dated 06.05.2022 made in CPT No.26/2022 on the file of the second respondent herein and quash the same.

For Petitioner : Mr.B.Gopalakrishnan

For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

[Order of the Court was made by P.N.PRAKASH, J.]

The petitioner is the mother of the detenu viz., Magbul Basha @ Bablu, S/o.Mohammedkhan, aged about 23 years. The detenu has been detained by the 2nd respondent by his order in CPT No.26/2022 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, learned counsel for the petitioner mainly focused his arguments on the ground that the arrest intimation pertaining to the ground case placed before the detaining authority has not been furnished to the detenu, which caused great prejudice to the detenu and he has been prevented from making an effective representation for consideration of the authorities concerned. Therefore, the impugned order of detention is vitiated in law.

4. A perusal of the booklet would go to show that the arrest intimation pertaining to the ground case placed before the detaining authority has not been enclosed in the booklet furnished to the detenu. Therefore, non-furnishing of the above material would obviously deprive of his opportunity to make effective representation and hence, we are of the opinion that the detention order is liable to be quashed on this ground.



H.C.P.No.914 of 2022

WEB COPY

In the result, the Habeas Corpus Petition is allowed and the order of detention in CPT No.26/2022 dated 06.05.2022, passed by the second respondent is set aside. The detenu viz., Magbul Basha @ Bablu, S/o.Mohammedkhan, aged about 23 years, is directed to be released forthwith, unless his detention is required in connection with any other case.

[P.N.P., J.] [N.A.V., J.]
09.01.2023

nsd



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WEB COPY

To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St.George,
Chennai-600 009.
- 2.The District Collector and District Magistrate,
Chengelput District, Chengelput.
- 3.The Superintendent of Police,
Chengelput District, Chengelput.
- 4.The Additional Superintendent,
Central Prison, Puzhal II,
Chennai.
- 5.The Inspector of Police,
E-1, Mamallapuram Police Station,
Chengelput District.
- 6.The Joint Secretary to Government,
Public, Law and Order Department,
Secretariat, Chennai-9.
- 7.The Public Prosecutor,
High Court, Madras.



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P.N.PRAKASH, J.
AND
N.ANAND VENKATESH, J.

nsd

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