



HCP No.1096 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2023

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THE HONOURABLE MR. JUSTICE P.N.PRAKASH

and

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

H.C.P.No.1096 of 2022

Menaka

... Petitioner

Vs.

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

2.The Commissioner of Police,
Greater Chennai, Vepery,
Chennai – 600 009

3. The Superintendent of Prison,
Central Prison II, Puzhal,
Chennai 600 066

4. The Inspector of Police,
S-7, Madipakkam Police Station,
Chennai 600 001

... Respondents

Habeas Corpus petition filed under Article 226 of the Constitution of India to issue
a Writ of Habeas Corpus call for the records in connection with the order of



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detention passed by the second respondent 02.06.2022 in BCDFGISSV No.136/2022 and set aside the same and direct the respondents to produce the petitioner's husband the detenu by name [Kutty@uma](#) Maheswaran S/o.Nagaraj aged 43 years before this Court now the detenu is confined in Central Prison, Puzhal II, Chennai and set him at liberty.

For Petitioner : Mr.L.Udhaya Kumar
For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

[Made by **P.N.PRAKASH, J.**]

The petitioner is the wife of the detenu, Kutty@ Uma Maheswaran Male aged 43 years S/o.Nagaraj, who has been detained by the second respondent by his order in BCDFGISSSV No.136/2022 dated 02.06.2022, 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.



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3. The main ground that was urged by the learned counsel for the appellant is that detaining authority after being aware of the fact that the detenu has not moved any bail application, came to a conclusion that there is likelihood of his coming out on bail by relying upon the order passed in CrI.M.P.No.10485 of 2021 by the Principal Sessions Judge, Chennai.

4. The learned counsel for the petitioner submitted that the order that was relied upon by the detaining authority is not a similar case. Hence, the order of detention suffers from non application of mind.

5. We have carefully gone through the order passed by the learned Principal Sessions Judge, Chennai, in CrI.M.P.No.10485 of 2022. That was a case where the bail was granted to the accused therein on the ground that he had already suffered incarceration for more than 75 days and there was no previous case reported against him and also had taken into consideration the pandemic situation that was prevailing at that point of time. In the case on hand, a bail application was not even moved by the detenu and hence, the order that was relied upon by the detaining authority cannot be considered to be a similar case. Thus the impugned



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detention order is liable to be set aside on this ground.

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In the result, the Habeas Corpus Petition is allowed and the order of detention in BCDFGISSSV No.136/2022 dated 02.06.2022, passed by the second respondent is set aside. The detenu, viz., Kutty@ Uma Maheswaran Male aged 43 years S/o.Nagaraj 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]
04.01.2023

Index: Yes/No
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