



WEB COPY



H.C.P.No.1214 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**

Habeas Corpus Petition No.1214 of 2022

Kavitha
D/o Mathiyazhagan

..... Petitioner

-Versus-

1.The Chief Secretary to the Government,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Fort St. George,
Chennai 600 009.

2.The Commissioner of Police,
Avadi City,
Office of Commissioner of Police,
Avadi, Chennai 600 054.

3.The Superintendent,
Central Prison,
Asthampatti,
Salem 636 008.

4.The Inspector of Police (L & O),
M-6,Manali Police Station,
Chennai.

.... Respondents



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Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus calling for the entire records connected with the order of the 2nd respondent herein in BCDFGISSSV No.23 of 2022 dated 22.04.2022 against the husband of the petitioner viz., Hari @ Gowri Sankar, aged 25 years, son of Kulothungan, now confined at Central Prison, Salem, and set aside the same and consequently direct the respondents herein to produce the body and person of the detenu before this court and set him at liberty forthwith.

For Petitioner : Mr.V.M.Venkataramana

*For Respondents : Mr.R.Muniyapparaj,
Additional Public Prosecutor*

ORDER

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

The petitioner is the wife of the detenu viz., Hari @ Gowri Sankar Son of Kulothungan. The detenu has been detained by the second respondent by his order in BCDFGISSSV No.23 of 2022 dated 22.04.2022, 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



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the learned Additional Public Prosecutor appearing for the respondents. We have also perused the records produced by the Detaining Authority.

3. The main ground that was urged by the learned counsel for the petitioner is that the detaining authority was aware of the fact that the detenu had moved a bail petition in one of the adverse case in Crime No.111 of 2022 on the file of M-6, Manali Police Station and the same was pending. Insofar as the ground case in Crime No.116 of 2022 on the file of Manali Police Station is concerned, the detenu had not moved any bail application. After being aware of these facts, the detaining authority came to a conclusion that there is likelihood of the detenu coming out on bail by relying upon the order passed by the Principal District and Sessions Court, Thiruvallur, in CrI.M.P.No.5834 of 2019 dated 15.11.2019.

4. The learned counsel for the petitioner submitted that the order that was relied upon by the detaining authority does not pertain to the 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, Thiruvallur, in CrI.M.P.No.5834 of 2019 dated 15.11.2019. That was a case where there was no previous case reported



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against the accused therein and the court also took into consideration the merits of the case while granting bail to the accused. In the present case, the detenu had 4 adverse cases against him apart from the ground case. Therefore, the order that was relied upon by the detaining authority cannot be considered to be a similar case. Thus the impugned detention order is liable to be set aside on this ground.

In the result, the Habeas Corpus Petition is allowed and the order of detention in BCDFGISSSV No.23 of 2022 dated 22.04.2022 passed by the second respondent is set aside. The detenu viz., Hari @ Gowri Sankar Son of Kulothungan, 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.)
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Index: Yes/No
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- 3.The Superintendent,
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Salem 636 008.
- 4.The Inspector of Police (L & O),
M-6,Manali Police Station, Chennai.
- 5.The Joint Secretary to Government of Tamil Nadu,
Public, Law and Order Department,
Secretariat, Chennai – 9.
- 6.The Public Prosecutor,
High Court, Madras.



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AND
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