



HCP No.1108 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.1225 of 2022

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.. Petitioner

Vs.

1. The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai 600 009.
2. The Commissioner of Police,
Avadi City Office of the Commissioner of Police,
Avadi, Chennai – 600 054
3. The Inspector of Police,
T-2, Ambattur Police Station,
Ambattur, Tiruvallur District.
4. The Inspector of Police,
K-4, Anna Nagar Police station,
Chennai District.
5. The Superintendent of Police,
Central Prison, Puzhal, Chennai

.. Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India



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praying to issue a Writ of Habeas Corpus call for the records in Connection with the order of detention passed by the second respondent dated 02.06.2022 in B.C.D.F.G.I.S.S.S.V No.50/2022 against the petitioners son Rajasekar @ Kuttarasu son of Lakshmanan aged about 22 years who is confined at Central Prison Puzhal Chennai and set aside the same and direct the respondents to produce the detenu before this Honble Court and set him at Liberty.

For Petitioner : Mr.M.Mohammed Riyaz
For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

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

The petitioner is the mother of the detenu viz., Thiru.Rajasekar @ Kutrarasu, male aged 22 years S/o.Lakshmanan. The detenu has been detained by the second respondent by his order in No.50/BCDFGISSSV/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.



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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. The learned counsel for the petitioner submitted that the detaining authority was aware of the fact that the bail petition filed by the detenu was pending and in spite of the same, the detaining authority came to a conclusion that there is likelihood of the detenue coming out on bail by relying upon the order in CrI.M.P.No.10485 of 2021. The learned counsel further submitted that the order that was relied upon by the detaining authority is not a similar case and hence, the detention order suffers from non application of mind.

4. 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



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no previous case reported against him and also had taken into consideration the pandemic situation that was prevailing at that point of time. The bail order that was relied upon by the detaining authority cannot, therefore, be considered to be a similar case. Thus the impugned order of detention clearly suffers from non application of mind and the same is liable to be set aside on this ground.

In the result, the Habeas Corpus Petition is allowed and the order of detention in No.50/BCDFGISSSV/2022 dated 02.06.2022 passed by the second respondent is set aside. The detenu, viz., Thiru.Rajasekar @ Kutrarasu, male aged 22 years S/o.Lakshmanan 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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6. The Public Prosecutor,
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