



WEB COPY



H.C.P.No.1250 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.01.2023

CORAM

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

H.C.P.No.1250 of 2022

Amudha

.. Petitioner

Vs.

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

2.The Commissioner of Police/
Detaining Authority,
Greater Chennai, Vepery, Chennai.

3.The Additional Superintendent,
Central Prison – II,
Puzhal, Chennai.

4.The Inspector of Police-cum-
Sponsoring Authority,
H-6, R.K.Nagar Police Station,
Chennai.

.. Respondents



H.C.P.No.1250 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. Udaya @ Udayakumar, aged about 30 years, S/o.Vetri, who is detained in the third respondent/the Additional Superintendent, Central Prison II, Puzhal, Chennai, before this Court and set him at liberty forthwith by calling for the records pursuant to the detention order dated 19.05.2022 made in Memo No.121/BCDFGISSSV/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., Udaya @ Udayakumar, aged about 30 years, S/o.Vetri. The detenu has been detained by the 2nd respondent by his order in Memo No.121/BCDFGISSSV/2022 dated 19.05.2022, 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.



H.C.P.No.1250 of 2022

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 main ground that was urged by the learned counsel for the petitioner is that the 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. He further 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.

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, 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



H.C.P.No.1250 of 2022

pandemic situation that was prevailing at that point of time. In the case on hand, the detenu has not even filed any bail petition and moreover, there are two adverse cases pending against the detenu. Hence, 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 Memo No.121/BCDFGISSSV/2022 dated 19.05.2022, passed by the second respondent is set aside. The detenu viz., Udaya @ Udayakumar, aged about 30 years, S/o.Vetri, 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.]
10.01.2023

nsd



H.C.P.No.1250 of 2022

WEB COPY To

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

2.The Commissioner of Police/
Detaining Authority,
Greater Chennai, Vepery, Chennai.

3.The Additional Superintendent,
Central Prison – II,
Puzhal, Chennai.

4.The Inspector of Police-cum-
Sponsoring Authority,
H-6, R.K.Nagar Police Station,
Chennai.

5.The Joint Secretary to Government,
Public, Law and Order Department,
Secretariat, Chennai-9.

6.The Public Prosecutor,
High Court, Madras.



WEB COPY



H.C.P.No.1250 of 2022

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

nsd

H.C.P.No.1250 of 2022

10.01.2023