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H.C.P.No.1294 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.1294 of 2022

Surya Kala
W/o.Akash

.. 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.

3.The Superintendent of Prison,
Central Prison,
Puzhal, Chennai-66.

4.The Inspector of Police, Law and Order,
M5 Ennore Police Station,
Chennai.

.. Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus call for the records in



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connection with the order of detention passed by the 2nd respondent dated 03.06.2022 in Memo No.52/BCDFGISSSV/2022 against the petitioner husband Akash, Male aged 22 years, S/o.Palani, who is confined at Central Prison, Puzhal, Chennai and set aside the same and direct the respondents to produce the detenu before the Court and set him at liberty.

For Petitioner : Mr.M.Nithiyavel

*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., Akash, Son of Palani. The detenu has been detained by the second respondent by his order in No.52/BCDFGISSSV/2022 dated 03.06.2022 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.

3. Though the learned counsel for the petitioner has raised several other grounds to assail the order of detention, he has mainly focused on the ground that the detenu has been provided with an illegible copy of the Form-



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91 in respect of a similar case. This deprived the detenu from making effective representation. Therefore, on this ground, the detention order is liable to be quashed.

4. On consideration of the submissions made on either side and upon perusal of the documents available on record, especially, Page No.218 of the booklet, it is clear that copy of Form-91 relating to a similar case that has been given to the detenue is illegible. 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 No.52/BCDFGISSSV/2022 dated 03.06.2022 passed by the second respondent is set aside. The detenu viz., Akash Son of Palani, 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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- 2.The Commissioner of Police,
Avadi City.
- 3.The Superintendent of Prison,
Central Prison,
Puzhal, Chennai-66.
- 4.The Inspector of Police, Law and Order,
M5 Ennore 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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