



WEB COPY



H.C.P.No.1302 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.1302 of 2022

E.Gopikrishnan @ Gopi

.. Petitioner

Vs.

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

2.The Commissioner of Police,
Greater Chennai,
Office of the Commissioner of Police,
Vepery, Chennai.

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

4.The Inspector of Police,
E-3, Teyampet Police Station,
Chennai.

.. Respondents



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Petition filed under Article 226 of the Constitution of India, praying

to issue a WRIT OF HABEAS CORPUS to call for the records pertaining to the order of detention passed by the second respondent in his proceedings in BCDFGISSSV No.158/2022 dated 16.06.2022 and quash the same as illegal and produce the detenu viz. E.Gopikrishnan @ Gopi, S/o.Elumalai, aged 22 years, now he is confined in the Central Prison, Puzhal-II, Chennai, before this Court and set him at liberty.

For Petitioner : Mr.C.Raja

For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

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

The petitioner is the detenu viz., E.Gopikrishnan @ Gopi, S/o.Elumalai, aged 22 years. The detenu has been detained by the 2nd respondent by his order in BCDFGISSSV No.158/2022 dated 16.06.2022, 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 main ground that was urged by the learned counsel for the petitioner is that the detenu had three adverse cases against him and in so far as the ground case is concerned, the bail petition filed by the detenu was pending and no orders were passed. In spite of the same, the detaining authority came to a conclusion that there is likelihood of the detenu coming out on bail by relying upon the order passed in CrI.M.P.No.19198 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.19198 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 28 days and there was only



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one previous case reported against him and moreover, major part of the investigation was completed. In the case on hand, the detenu has three adverse cases pending against him. 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 BCDFGISSSV No.158/2022 dated 16.06.2022, passed by the second respondent is set aside. The detenu *viz.*, E.Gopikrishnan @ Gopi, S/o.Elumalai, aged 22 years, 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



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

4.The Inspector of Police,
E-3, Teyampet Police Station,
Chennai.

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

6.The Public Prosecutor,
High Court, Madras.



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

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