



WEB COPY



H.C.P.No.1326 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.1326 of 2022

Kausalya

.. Petitioner

Vs.

1.State of Tamil Nadu represented by
The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai-9.

2.The Commissioner of Police
Greater Chennai,
the Commissioner Office,
Vepery, Chennai – 600 007.

3.The Inspector of Police,
S-7, Madipakkam Police Station,
Tiruvallur, Tiruvallur District.

4.The Superintendent of Prison,
Central Prison – II,
Puzhal, Chennai - 66.

.. Respondents



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

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to issue a WRIT OF HABEAS CORPUS calling for the records relating to the detention order in BCDFGISSSV No.146/2022 dated 03.06.2022 passed by the second respondent under the Tamil Nadu Act 14/1982 and set aside the same and direct the respondents to produce the petitioner's husband Sathishkumar, the detenu, now confined in the Central Prison, Puzhal at Chennai, before this Court and set the petitioner's husband Sathishkumar, son of Thanigachalam, aged about 34 years, the detenu herein, at liberty.

For Petitioner : Mr.M.Baskar

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., Sathishkumar, son of Thanigachalam, aged about 34 years. The detenu has been detained by the 2nd respondent by his order in BCDFGISSSV No.146/2022 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.



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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 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



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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 is one adverse case 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 BCDFGISSSV No.146/2022 dated 03.06.2022, passed by the second respondent is set aside. The detenu *viz.*, Sathishkumar, son of Thanigachalam, aged about 34 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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2.The Commissioner of Police
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3.The Inspector of Police,
S-7, Madipakkam Police Station,
Tiruvallur, Tiruvallur District.

4.The Superintendent of Prison,
Central Prison – II,
Puzhal, Chennai - 66.

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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