



WEB COPY



HCP No.1375 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2023

Coram

**THE HONOURABLE MR. JUSTICE P.N.PRAKASH
and
THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH**

H.C.P.No.1375 of 2022

S.Vimalda
W/o.Sagayadency

.. Petitioner

Vs.

1.State of Tamil Nadu,
represented by
Secretary to Government, Home,
Prohibition and Excise Department,
Secretariat, Chennai - 600 009.

2.The Commissioner of Police,
Chennai Police,
Chennai - 600 007.

3.The Superintendent of Police,
Central Prison, Puzhal,
Chennai.

4.The Inspector of Police,
S-7, Madipakkam Police Station,
Chennai - 600 091.

.. Respondents



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Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus to produce the detenu Sagaya Densy S/o.Mathew, aged about 55 years, residing at No.345, Palaiya Garden, F-4 Dakshan Apartment, Madipakkam, Chennai, was branded as GOONDA by the order of detention passed by the second respondent order Memo No.BCDFGISSSV No.138/2022 dated 02.06.2022, who is confined at Central Prison, Puzhal and set him at liberty.

For Petitioner : Mr.R.C.Paul Kanagaraj
For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

[Made by **N.ANAND VENKATESH, J**]

The petitioner is the wife of the detenu viz., Sagaya Densy S/o.Mathew, aged about 55 years. The detenu has been detained by the second respondent by his order in BCDFGISSSV No.138/2022 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 after being aware of the fact that the detenu has not moved any bail application, had come to the conclusion that there is likelihood of the detenu coming out on bail by relying upon an order passed in CrI.M.P.No.10485/2021. Learned counsel submitted that the order relied upon by the detaining authority is not a similar case. Hence, the detention order suffers from non-application of mind.

4. We have carefully gone through the order passed in CrI.M.P.No.10485/2021, which was relied upon by the detaining authority to come to the conclusion that that there is likelihood of the detenu coming out on bail. In the said order, no serious objections were raised by the Public Prosecutor for granting bail to the accused therein. That apart, the Court also took into consideration that the accused therein suffered incarceration for



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sufficient number of days. Hence, the order relied upon by the detaining authority cannot be held to be a similar case and hence, it reflects non-application of mind.

In the result, the Habeas Corpus Petition is allowed and the order of detention in BCDFGISSSV No.138/2022 dated 02.06.2022 passed by the second respondent is set aside. The detenu, viz., Sagaya Densy S/o.Mathew, aged about 55 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]
04.01.2023

Index: Yes/No
gm

To

- 1.The Secretary to Government, Home,
Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
- 2.The Commissioner of Police,
Chennai Police,
Chennai - 600 007.
- 3.The Superintendent of Police,
Central Prison, Puzhal,
Chennai.



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4.The Inspector of Police,
S-7, Madipakkam Police Station,
Chennai - 600 091.

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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