



HCP No.1362 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 10.01.2023

Coram

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

H.C.P.No.1362 of 2022

E.Jancy
W/o.Elamaran

.. Petitioner

Vs.

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600 009.
- 2.The Commissioner of Police,
Chennai City.
- 3.The Superintendent,
Central Prison-II,
Puzhal, Chennai.
- 4.The Inspector of Police (Law & Order),
H-5, New Washermenpet Police Station,
Chennai.

.. Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus calling for the entire records in connection with the order of detention passed by the second respondent dated



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15.06.2022 in Memo No.154/BCDFGISSSV/2022 against the petitioner's son Naresh Kumar S/o.Elamaran, aged about 23 years, who is confined at Central Prison, Puzhal-II, Chennai and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.M.Illiyas
For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

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

The petitioner is the mother of the detenu viz., Naresh Kumar S/o.Elamaran, aged about 23 years. The detenu has been detained by the second respondent by his order in No.154/BCDFGISSSV/2022 dated 15.06.2022, 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. The main ground that was urged by the learned counsel for the petitioner



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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. The learned counsel for the petitioner 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 2021. 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 also had taken into consideration the pandemic situation that was prevailing at that point of time. In the case on hand, a bail application was not even moved by the detenu and 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



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detention in No.154/BCDFGISSSV/2022 dated 15.06.2022, passed by the second respondent is set aside. The detenu, viz., Naresh Kumar S/o.Elamaran, aged about 23 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

Index: Yes/No
gm



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To

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- 2.The Commissioner of Police,
Chennai City.
- 3.The Superintendent,
Central Prison-II,
Puzhal, Chennai.
- 4.The Inspector of Police (Law & Order),
H-5, New Washermenpet 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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P.N.PRAKASH, J
and
N.ANAND VENKATESH, J

gm

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