



WEB COPY



H.C.P.No.1424 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**

Habeas Corpus Petition No.1424 of 2022

Logeswari
W/o Karthikeyan

..... Petitioner

-Versus-

- 1.The State of Tamil Nadu,
Rep. by its Addl. Chief Secretary to Government,
(Home), Prohibition and Excise Department,
Secretariat, Fort St. George,
Chennai 600 009.
- 2.The Commissioner of Police,
Greater Chennai,
132, EVK Sampath Road,
Vepery, Chennai 600 007.
- 3.The Superintendent,
Central Prison,
Puzhal, Chennai 600 066.
- 4.The Director General of Police,
O/o Director General of Police,
Dr.Radha Krishnan Salai,
Mylapore, Chennai 600004.



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5. The Inspector of Police,
Law and Order,
D-2, Anna Salai Police Station,
Triplilcane, Chennai.

.... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus calling for the entire records relating to the Impugned order of detention passed by the second respondent in BCDFGISSSV No.161/2022 dated 17.06.2022 and set aside the same and consequently direct the respondents to produce the detenu viz., Karthikeyan S/o.Desinghu. aged about 32 years, petitioner's husband now confined at Central Prison Puzhal Chennai before this court and set him at liberty.

For Petitioner : Mr.S.Saravanakumar

*For Respondents : Mr.R.Muniyapparaj,
Additional Public Prosecutor*

ORDER

[Order of the Court was made by N.ANAND VENKATESH.J.,]

The petitioner is the wife of the detenu viz., Karthikeyan S/o.Desinghu, aged 32 years. The detenu has been detained by the second respondent by his order in BCDFGISSSV No.161/2022 dated 17.06.2022, 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. The main ground that was urged by the learned counsel for the petitioner is that the detaining authority was aware of the fact that the detenu had moved a bail application in the adverse case in Crime No.111/2022 and the same was dismissed. Insofar as the ground case in Crime No.112 of 2022 is concerned, no bail application was moved. However, the detaining authority had come to the conclusion that there is likelihood of the detenu coming out on bail by relying upon the order passed in CrI.M.P.Nos.18385 and 18431/2021. 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.

3. We have carefully gone through the order passed in CrI.M.P.Nos.18385 and 18431/2021, 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. That was a case where the co-accused was granted bail by the High Court and the accused therein had already suffered incarceration for nearly 80 days and investigation was almost completed. In view of the same, the order relied upon by the detaining authority cannot be held to be a similar case and hence, it reflects non-application of mind.



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In the result, the Habeas Corpus Petition is allowed and the order of detention in BCDFGISSSV No.161/2022 dated 17.06.2022 passed by the second respondent is set aside. The detenu viz., Karthikeyan S/o.Desinghu, aged 32 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

To

- 1.The Addl. Chief Secretary to Government,
(Home), Prohibition and Excise Department,
Secretariat, Fort St. George,
Chennai 600 009.
- 2.The Commissioner of Police,
Greater Chennai,
132, EVK Sampath Road,
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5.The Inspector of Police,
Law and Order,
D-2, Anna Salai Police Station,
Triplilcane, Chennai.

6.The Joint Secretary to Government of Tamil Nadu,
Public, Law and Order Department,
Secretariat, Chennai – 9.

7.The Public Prosecutor,
High Court, Madras.



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