



HCP No.1441 of 2022

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED: 03.01.2023**

**Coram**

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

**H.C.P.No.1441 of 2022**

T.Samathanam  
W/o.Thirumavalavan

... Petitioner

**Vs.**

1.Government of Tamil Nadu,  
rep. By its  
Secretary, Home, Prohibition and Excise (XVI) Department,  
Fort St.George,  
Chennai – 600 009.

2.The Commissioner of Police,  
Avadi City.

3.The Superintendent of Central Prison,  
Puzhal,  
Chennai – 600 066.

4.The Inspector of Police,  
T-7, Tank Factory Police Station,  
Avadi, Chennai.

... Respondents



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Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus calling for the records in Memo No.46/BCDFGISSSV/2022 dated 31.05.2022 on the file of the 2<sup>nd</sup> respondent and set aside the same and direct the respondents herein to produce the body of my son Thiru.Vasanthavelan, S/o.Thirumavalavan, aged 24 years, now confined in Central Prison-II, Puzhal, Chennai 600 066 before this Court and set him at liberty.

For Petitioner : Mr.S.Sivasubramani

For Respondents : Mr.R.Muniyapparaj  
Additional Public Prosecutor

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### **ORDER**

[Made by **P.N.PRAKASH, J.**]

The petitioner is the mother of the detenu, Vasanthavelan S/o.Thirumavalavan, aged 24 years. The detenu has been detained by the second respondent by his order in No.46/BCDFGISSSV/2022 dated 31.05.2022, 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 learned counsel for the petitioner and learned Additional Public Prosecutor for the respondents. We have also perused the records produced by the Detaining Authority.

3. Learned counsel for the petitioner submits that page No.116 [Form-91 in the second adverse case] in the booklet furnished to the detenu is illegible. Learned counsel further submits that the same adversely has affected the detenu's right of making an effective representation.

4. Learned Additional Public Prosecutor strongly opposed the Habeas Corpus Petition.

5. When the document furnished to the detenu is illegible, opportunity of clear understanding and making effective representation in keeping with Article 22(5) of the Constitution of India on such understanding is lost and the detenu is deprived thereof. This would vitiate



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the order of detention. For the aforesaid reasons, this Court would allow the present petition.

In the result, the Habeas Corpus Petition is allowed and the order of detention in No.46/BCDFGISSSV/2022 dated 31.05.2022, passed by the second respondent is set aside. The detenu, viz., Vasanthavelan S/o.Thirumavalavan, aged 24 years, is directed to be released forthwith unless his detention is required in connection with any other case.

[PNP, J.] [NAV, J.]  
03.01.2023

Index: Yes/No  
gm/ssr

To

1.The Secretary,  
Home, Prohibition and Excise (XVI) Department,  
Fort St.George,  
Chennai – 600 009.

2.The Commissioner of Police,  
Avadi City.



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3.The Superintendent of Central Prison,  
Puzhal, Chennai – 600 066.

4.The Inspector of Police,  
T-7, Tank Factory Police Station,  
Avadi, 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.**

SSR

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**03.01.2023**