



WEB COPY



H.C.P.No.1812 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.1812 of 2022

Devi,
W/o Chitrarasu

..... Petitioner

-Versus-

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St. George,
Chennai 600 009.
- 2.The Commissioner of Police,
Detaining Authority,
Greater Chennai, Vepery,
Chennai.
- 3.The Additional Superintendent,
Central Prison-II,
Puzhal, Chennai.
- 4.The Inspector of Police cum
Sponsoring Authority,
H6, R.K.Nagar Police Station,
Chennai.

.... Respondents



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Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus to produce the body of the petitioner's son, viz., Aravindan, S/o Chitrarasu, aged 22 years, who is detained in 3rd respondent the Additional Superintendent Central Prison-II Chennai before this court and set him at liberty forthwith by calling for the records pursuant to the detention order dated 19.05.2022 made in Memo.No.120/BCDFGISSSV/2022 on the file of the 2nd respondent herein and quash the same.

For Petitioner : Mr.B.Gopalakrishnan

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

ORDER

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

The petitioner is the mother of the detenu viz., Aravindan, S/o Chitrarasu, aged 22 years. The detenu has been detained by the second respondent by his order in Memo.No.120/BCDFGISSSV/2022 dated 19.05.2022, 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 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. 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 that there was no previous case against the accused



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therein and also 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 detention in Memo.No.120/BCDFGISSSV/2022 dated 19.05.2022 passed by the second respondent is set aside. The detenu viz., Aravindan, S/o Chitrarasu, aged 22 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,
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Chennai.
3. The Additional Superintendent,
Central Prison-II,
Puzhal, Chennai.
4. The Inspector of Police cum
Sponsoring Authority,
H6, R.K.Nagar 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
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