



WEB COPY



HCP No.1937 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.1937 of 2022

Sathya
W/o.Krishnan

... Petitioner

Vs.

1.The Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat, Fort St. George,
Chennai – 600 009.

2.The Commissioner of Police,
Tambaram City,
Office of the Commissioner of Police,
Sholinganallur,
Chennai – 600 119.

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

4.State rep. By its
The Inspector of Police,
S-5 Pallavaram Police Station,
Chennai.

... Respondents



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Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the entire records, relating to the petitioner's son detention under Tamil Nadu Act 14 of 1982 vide detention order, dated 02.05.2022 on the file of the second respondent herein made in proceedings Memo in BCDFGISSSV No.63/2022, quash the same as illegal and consequently direct the respondents herein to produce the petitioner's son namely Abinash @ Abi, S/o.Krishnan, aged 22 years before this Court and set the petitioner's son at liberty from detention, now the petitioner's son detained at Central Prison, Puzhal, Chennai.

For Petitioner : Mr.D.Balaji for
Ms.S.Vedavalli

For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

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

The petitioner is the mother of the detenu, Abinash @ Abi S/o.Krishnan, aged 22 years. The detenu has been detained by the second respondent by his order in BCDFGISSSV No.63/2022 dated 02.05.2022, 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. The learned counsel for the petitioner submitted that the detaining authority was aware of the fact that the detenu had filed bail applications in both the adverse cases and the same were pending. That apart, no bail application was filed in the ground case. However, the detaining authority had come to a conclusion that there is likelihood of the detenu coming out on bail by relying upon an order passed in CrI.M.P.No.5200/2021. 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.5200/2021. The accused therein was granted bail on the ground that there was no previous bad antecedents against him and that apart, he had suffered incarceration sufficiently for a long time. In the present case,



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there are three adverse cases and a ground case against the detenu and therefore, there are bad antecedents against the detenu. 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.63/2022 dated 02.05.2022, passed by the second respondent is set aside. The detenu, viz., Abinash @ Abi S/o.Krishnan, aged 22 years, is directed to be released forthwith unless his detention is required in connection with any other case.

[PNP, J.] [NAV, J.]
04.01.2023

Index: Yes/No
gm/ssr

To
1.The Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat, Fort St. George,
Chennai – 600 009.



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2. The Commissioner of Police,
Tambaram City,
Office of the Commissioner of Police,
Sholinganallur,
Chennai – 600 119.
3. The Superintendent,
Central Prison,
Puzhal, Chennai – 600 066.
4. The Inspector of Police,
S-5 Pallavaram 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.

SSR

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