



HCP No.2273 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**

**H.C.P.No.2273 of 2022**

Ramachandran  
S/o.Kandeepan

... Petitioner

**Vs.**

1.State of Tamil Nadu  
represented by its  
Secretary to Government,  
Home, Prohibition and Excise Department,  
Secretariat, Chennai - 600 009.

2.The Commissioner of Police,  
Avadi City, Chennai.

3.The Inspector of Police,  
M-6 Manali Police Station,  
Chennai.

4.The Superintendent,  
Central Prison, Puzhal,  
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 entire records relating to petitioner's brother detention under Tamil Nadu Act 14 of 1982 vide detention order dated 06.04.2022 on the file of the second respondent herein made in proceedings No.18/BCDFGISSSV/2022 and quash the same as illegal and consequently, direct the respondents herein to produce the petitioner's brother, namely, Parthiban S/o.Kandeepan, aged 26 years, before this Court and set him at liberty, now petitioner's brother detained at Central Prison, Puzha, Chennai - 600 066.

For Petitioner : Mr.C.C.Chellappan  
For Respondents : Mr.R.Muniyapparaj  
Additional Public Prosecutor  
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### **ORDER**

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

The petitioner is the brother of the detenu, Parthiban S/o.Kandeepan, aged 26 years. The detenu has been detained by the second respondent by his order in No.18/BCDFGISSSV/2022 dated 06.04.2022, 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. The main ground that was urged by the learned counsel for the petitioner is that there are three adverse cases against the detenu and one ground case. The detaining authority was aware of the fact that the bail applications that were moved in one adverse case and in the ground case in Crime Nos.89/2022 and 91/2022 were pending. However, the detaining authority had come to the conclusion that there is likelihood of the detenu coming out on bail by relying upon an order passed in CrI.M.P.No.5834/2019. 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.No.5834/2019, 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 there was no previous case against the accused therein and considering the fact that the stolen property was also recovered and the accused had already suffered incarceration for sufficient period of time, bail was granted in that case. In the case on hand, there are



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admittedly three adverse cases against the detenu. Hence, the order relied upon by the detaining authority cannot be held to be a similar case and it reflects non-application of mind.

In the result, the Habeas Corpus Petition is allowed and the order of detention in No.18/BCDFGISSSV/2022 dated 06.04.2022, passed by the second respondent is set aside. The detenu, viz., Parthiban S/o.Kandeepan, aged 26 years, is directed to be released forthwith unless his detention is required in connection with any other case.

[PNP, J.] [NAV, J.]  
10.01.2023

Index: Yes/No  
gm

To

- 1.The Secretary to Government,  
Home, Prohibition and Excise Department,  
Secretariat, Chennai - 600 009.
- 2.The Commissioner of Police,  
Avadi City, Chennai.



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3.The Inspector of Police,  
M-6 Manali Police Station,  
Chennai.

4.The Superintendent,  
Central Prison, Puzhal,  
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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