



HCP(MD)No.143 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 21.07.2023

CORAM

**THE HON'BLE MR JUSTICE M.S.RAMESH
AND
THE HON'BLE MR JUSTICE M.NIRMAL KUMAR**

H.C.P.(MD)No.143 of 2023

Vasantha

.. Petitioner / Mother of Detenu

Vs.

1.The Principal Secretary to Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat,
Fort St.George,
Chennai – 600 009.

2.The Commissioner of Police,
Trichy City,
Trichy.

3.The Superintendent of Prison,
Central Prison,
Trichy.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to
issue a writ of Habeas Corpus, calling for the records pertaining to the



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detention order in C.No.166/Detention/C.P.O/T.C/2022 dated 22.11.2022 passed by the second respondent and set aside the same by setting the detenu by namely Balaji, S/o.Ravi, aged 25 years and set him at liberty, now detained at Central Prison, Trichy, Trichy District.

For Petitioner : Mr.K.Sivabalan

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

(Order of the Court was made by M.S.RAMESH,J.)

The petitioner is the mother of the detenu viz., Balaji, S/o.Ravi, aged about 25 years. The detenu has been detained by the second respondent by his order in C.No.166/Detention/C.P.O/T.C/2022 dated 22.11.2022 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. Though several grounds have been raised in the Habeas Corpus Petition, the learned counsel appearing for the petitioner would mainly focus his argument on the ground that the detaining authority, after being aware of the fact that there was no bail application filed by the detenu in the ground case, came to the conclusion that there is a real possibility of the detenu coming out on bail by relying upon the order passed in Cr.M.P.No. 4529/2021 dated 23.10.2021. The learned counsel therefore submitted that the order that was relied upon by the detaining authority was not similar and on that score, the detention order is liable to be interfered with.

4. The learned Additional Public Prosecutor strongly opposed the Habeas Corpus Petition by filing his counter.



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5. On carefully going through the detention order, the detaining authority was aware of the fact that no bail application was filed by the detenu in the ground case. However, the detaining authority took into consideration the order passed in Cr.M.P.No.4529/2021 dated 23.10.2021 and came to the conclusion that there is a likelihood of the detenu coming out on bail. Perusal of the order shows that the accused therein was enlarged on bail taking into consideration the printed form like allegations made in the FIR like almost all other similar cases and that the accused therein was involved in a previous case for the offence under the Tamil Nadu Prohibition Act. However, in the present case, the detenu was involved in three previous cases for the offences under Sections 457 and 380 IPC. Hence, the bail order that was relied upon by the detaining authority cannot be considered to be a similar one.

6. In view of the above, the detention order suffers from non application of mind and the same is liable to be interfered with by this Court. The impugned detention order is, therefore, liable to be quashed.



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7. In the result, the Habeas Corpus Petition is allowed and the order of detention in C.No.166/Detention/C.P.O/T.C/2022 dated 22.11.2022 passed by the second respondent is set aside. The detenu, viz., Balaji, S/o.Ravi, aged about 25 years, is directed to be released forthwith unless his detention is required in connection with any other case.

(M.S.R.,J.) (M.N.K.,J.)
21.07.2023

NCC : Yes / No
Index : Yes / No
Lm/mbi



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- 1.The Principal Secretary to Government of Tamil Nadu,
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- 2.The Commissioner of Police,
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Trichy.
- 3.The Superintendent of Prison,
Central Prison,
Trichy.
- 4.The Joint Secretary to Government,
Public (Law and Order),
Fort St.George,
Chennai.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.S.RAMESH,J.
and
M.NIRMAL KUMAR,J.

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