



HCP(MD)No.154 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 14.07.2023

CORAM

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

H.C.P.(MD)No.154 of 2023

Raziya Begum

.. Petitioner / mother of
the detenu

Vs.

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

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

3.The Inspector of Police
Airport Police Station,
Trichy City

4.The Superintendent of Prison,
Central Prison, Tiruchirappalli

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the records, pertaining to the order of detention passed by the second respondent in proceedings C.No. 145/Detention/CPO/TC/2022 dated 07.10.2022 and quash the same as illegal and produce the detenu namely Abu Alias Ibrahimsha, S/o.Khaja



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Moideen, aged about 25 years, now he is confined in Central Prison, Trichy before this Court and set him at liberty.

For Petitioner : Mr.T.Leninkumar

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., Abu @ Ibrahimsha aged about 25 years, S/o.Khaja Moideen. The detenu has been detained by the second respondent by his order in C.No.145/Detention/CPO/TC/2022 dated 07.10.2022 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. 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



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aware of the fact that there was no bail application filed by the detenu came to the conclusion that there is a real possibility of the detenu coming out on bail by relying upon the order passed in CrI.M.P.No.5618/2021. The learned counsel therefore submitted that the order that was relied upon by the detaining authority was not a similar and on that score, the detention order is liable to be interfered with.

4. The learned Additional Public Prosecutor strongly opposed this petition by filing the counter affidavit.

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. However, the detaining authority took into consideration the order passed in CrI.M.P.No.5618/2021 dated 13.12.2021 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 on the ground that in the printed form the allegations are made in all the similar cases and hence, the bail order that was relied upon by the detaining authority cannot be considered to be a similar one.



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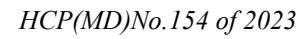
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6. In view of the above, the detention order suffers from non application of mind and the same is liable to be interfered with by this Court. The impugned detention order is, therefore, liable to be quashed.

7. In the result, the Habeas Corpus Petition is allowed and the order of detention in C.No.145/Detention/CPO/TC/2022 dated 07.10.2022 passed by the second respondent is set aside. The detenu, viz., Abu @ Ibrahimsha S/o.Khaja Moideen, 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.)
14.07.2023

Internet : Yes
RR



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

3.The Inspector of Police Airport Police Station, Trichy City

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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