



H.C.P(MD)No.431 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 21.07.2023

CORAM :

THE HONOURABLE MR JUSTICE M.S.RAMESH
AND
THE HONOURABLE MR JUSTICE M.NIRMAL KUMAR

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.. Petitioner

vs.

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

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

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

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India praying to issue a writ of habeas corpus calling for the records pertaining to the impugned detention order passed by the second respondent in proceedings in C.No.167/Detention/C.P.O/T.C/2022 dated 22.11.2022 in detaining the detenu under Section 2 (f) of the Tamil Nadu Act 14/1982 as a Goonda and



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quash the same and direct the respondents to produce the detenu namely Govindaraj @ Ammavasai, S/o.Krishnan, male, aged about 21 years, who is detained in Central Prison, Tiruchirappalli, before this Court and set him at liberty.

For Petitioner : Mr.K.M.Karunakaran

For respondents : Mr.A.Thiruvadi Kumar,
Additional Public Prosecutor

ORDER

[Order of the Court was made by M.S.RAMESH, J.]

The petitioner is the wife of the detenu viz., Govindaraj @ Ammavasai, S/o.Krishnan, aged about 21 years. The detenu has been detained by the second respondent by order in C.No. 167/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.

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 CrI.M.P.No. 4529 of 2021, dated 23.10.2021. The learned counsel for the petitioner submitted that the order relied upon by the detaining authority is 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 counter.

5. On carefully going through the detention order, it is seen that in the order that was relied upon by the detaining authority in CrI.M.P.No.4529 of 2021, dated 23.10.2021, the accused therein was enlarged on bail since printed form like allegations are made in the FIR like almost all other similar cases and since the accused therein has a previous case for the



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offence punishable under Section 4(1)(a) of Tamil Nadu Prohibition Act.

However, it is not so, in the present case. Hence, the order that was relied upon by the detaining authority cannot be considered to be an order passed in a similar case.

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.

7. In the result, the Habeas Corpus Petition is allowed and the order of detention in C.No.167/Detention/C.P.O/T.C/2022 dated 22.11.2022 passed by the second respondent is set aside. The detenu, viz., Govindaraj @ Ammavasai, S/o.Krishnan, aged about 21 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
Speaking/Non-speaking order
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Tiruchirappalli City,
Tiruchirappalli.
- 3.The Superintendent of Prison,
Central Prison,
Tiruchirappalli.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 5.The Joint Secretary,
Public (Law and Order) Department,
Fort St.George, Chennai.



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