



HCP(MD)No.605 of 2023

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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DATED: 08.09.2023

CORAM

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

**H.C.P.(MD)No.605 of 2023**

Gomathi

.. Petitioner

Vs.

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

2.The Commissioner of Police,  
Tiruchirappalli City  
Tiruchirappalli.

3.The Superintendent,  
Central Prison,  
Tiruchirappalli District.

.. Respondents

**PRAYER:** Habeas Corpus 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 detention order passed by the 2<sup>nd</sup> respondent in C.No. 11/Detention/CPO/TC/2023 dated 08.03.2023 and quash the same as illegal and direct the respondents to produce the detenu Kirosh Son of Krishnan,



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male aged 23 years who is detained at Central Prison, Tiruchirappalli before this Court and set him at liberty.

For Petitioner : Mr.S.Balamuruganantham

For Respondents : Mr.A.Thiruvadikkumar  
Additional Public Prosecutor

### **ORDER**

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

The petitioner is the mother of the detenu viz., Kirosh, aged about 23 years, S/o.Krishnan. The detenu has been detained by the second respondent by his order in C.No.11/Detention/CPO/TC/2023 dated 08.03.2023 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.



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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 though the detaining authority was aware of the fact that the detenu has filed bail application and the same was dismissed, the detaining authority has relied upon the order passed in CrI.M.P.No.356/2022 dated 03.02.2022 and came to the conclusion that in a similar case bail has been granted and that there is likelihood of the detenu released on bail. The learned counsel for the petitioner therefore submitted that the order relied upon by the detaining authority is not similar and there is non application of mind on the part of the detaining authority.

4. The learned Additional Public Prosecutor strongly opposed the Habeas Corpus Petition by filing his 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. 356/2022 dated 03.02.2022, the accused therein was enlarged on bail since there was no previous cases pending against him. However, in the present case, there is previous case pending against the detenu. Hence, the order that



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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. 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.11/Detention/CPO/TC/2023 dated 08.03.2023 passed by the second respondent is set aside. The detenu, viz., Kirosh, S/o.Krishnan, aged about 23 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.)  
08.09.2023

NCC :Yes / No  
Internet : Yes  
RR



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To

- 1.The Secretary to Government  
Home, Prohibition and Excise Department  
Secretariat, Chennai 600 009.
- 2.The Joint Secretary  
Public Law and Order  
Secretariat, Chennai.
- 3.The Commissioner of Police,  
Tiruchirappalli City  
Tiruchirappalli.
- 4.The Superintendent,  
Central Prison,  
Tiruchirappalli District.
- 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.**

**RR**

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