



HCP(MD)No.1470 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 05.07.2023

CORAM

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

H.C.P.(MD)No.1470 of 2022

Valarmathi

.. Petitioner / Mother of the detenu

Vs

1. The Additional Chief Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Chennai-9.
2. The District Collector and District Magistrate,
O/o. the District Collector and District Magistrate,
Sivagangai, Sivagangai District.
3. The Superintendent of Prison,
Central Prison, Madurai.

... Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus by calling for the records, relating to the impugned order of detention made in Cr.MP.No.34/Goonda/2022 dt.5.8.2022, on the file of the District Collector and District Magistrate, Sivagangai District, the second respondent herein, branding the detenu by name



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Muthupandi,S/o.Selvam,aged 22 years, as Goonda, who is now confined in Central Prison, Madurai, Madurai District and quash the impugned order of detention and set him at liberty by producing him before this Court.

For Petitioner : Mr.P.Banuprasath

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., Muthupandi aged about 22 years, S/o.Selvam. The detenu has been detained by the second respondent by his order in Cr.MP.No.34/Goonda/2022 dt.5.8.2022 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.



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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 the detaining authority after being 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.1736/2020. The learned counsel therefore submitted that the order that was relied upon by the detaining authority was not a similar since in that case bail was granted on the ground that co-accused had already been released on bail. He would further submit that in the representation that has been sent by the detenu, though translated copy of the bail order has been sought for, it has not been provided. On these grounds, the detention order is liable to be interfered with, he submitted.

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

5. On carefully going through the detention order, the detaining authority was aware of the fact that no bail application was filed by the



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detenu. However, the detaining authority took into consideration the order passed in CrI.M.P.No.1736/2020 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 had been granted the relief since the co-accused had already been granted bail. 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.

7. In the result, the Habeas Corpus Petition is allowed and the order of detention in Cr.MP.No.34/Goonda/2022 dt.5.8.2022 passed by the second respondent is set aside. The detenu, viz., Muthupandi S/o.Selvam, aged about 22 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.)
05.07.2023

Internet : Yes
RR



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O/o. the District Collector and District Magistrate,
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Madurai Bench of Madras High Court, Madurai.



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and
M.NIRMAL KUMAR,J.

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