



HCP(MD)No.1545 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 20.01.2023

CORAM

**THE HON'BLE DR. JUSTICE G.JAYACHANDRAN
AND
THE HON'BLE MR JUSTICE SUNDER MOHAN**

H.C.P.(MD)No.1545 of 2022

Gangadevi

.. Petitioner /Mother of
the Detenu

Vs.

1.The State of Tamil Nadu,
Rep by its Secretary to Government,
Home, Prohibition and Excise (XIV) Department,
Fort St.George, Chennai-600 009.

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

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

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, calling for the records of the detention order of the 2nd respondent in proceedings in No.19/BCDFGISSSV/2022, dated 05.05.2022 and quash the same and consequently, direct the respondents to



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produce the detenu namely Mr.Parthasarathi, aged about 19 years, son of Neelachandran, before this Court, who is detained at Central Prison, Madurai and set him at liberty.

For Petitioner :Mr.M.Kannan,
for Mr.B.Sudha Sathyanand
For Respondents :Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

DR. G.JAYACHANDRAN,J.
and
SUNDER MOHAN,J.

This Habeas Corpus Petition is filed by the mother of the detenu viz., Parthasarathi, aged about 19 years, S/o.Neelachandran. The detenu has been detained by the second respondent, by his order in Detention Order No. 19/BCDFGISSSV/2022 dated 05.05.2022 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. Due to previous enmity, the detenu along with other accused viz., Boopathi Ragavendra had attempted to murder one Balakrishnan and a case was registered before the Koodalpudur Police Station in Cr.No.291 of 2021. Subsequently, he has involved for the offence under the Explosive Substances Act and the case was registered by Samayanallur Police Station in Crime No.417 of 2021. While so, on 10.04.2022, the detenu along with others attacked one Balakrishnan, when he refused to give money. Hence, a case in Crime No.293 of 2022 for offence under Sections 392 r/w 397, 506(ii) IPC has been registered by Tallakulam Police Station. The detenu and the co-accused were arrested on 11.04.2022. The detaining authority, considering the antecedent of the accused Boopathi Ragavendra, has passed the detention order, on 05.05.2022, which is under challenge in this Habeas Corpus Petition filed by the mother of the detenu.



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4.The learned counsel appearing for the petitioner would submit that the co-accused Boopathi Ragavendra, who has suffered preventive detention order, has successfully challenged the same and the detention order was quashed by order dated 02.12.2022 by this Court in H.C.P(MD)No.1963 of 2022. The same parity has also to be extended to the detenu, Parthasarathi.

5.On considering the quashing of the case by this Court in respect of the co-accused and the materials placed before this Court including the counter affidavit filed by the second respondent, this Court finds that though the detenu has come to the adverse notice of the law enforcing agency on more than 13 occasions. The reasoning given by the detaining authority about the likelihood of getting bail comparing similar case suffers non-application of mind as pointed out by this Court, in its order dated 02.12.2022, in connection with the HCP filed by the co-accused. Since the reasoning and subjective satisfaction of the detaining authority is not based on a similar case, the detaining authority suffers infirmity which enure liberty to the detenu.



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6. In the result, the Habeas Corpus Petition is allowed and the order of detention in Detention Order No.19/BCDFGISSSV/2022 dated 05.05.2022 passed by the second respondent is set aside. The detenu, viz., Parthasarathi, aged about 19 years, S/o.Neelachandran, is directed to be released forthwith unless his detention is required in connection with any other case.

(G.J.,J.) (S.M.,J.)
20.01.2023

NCC :Yes/No

Index:Yes/No

Internet:Yes/No

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To

1.The Secretary to Government,
Home, Prohibition and Excise (XIV) Department,
Fort St.George, Chennai-600 009.

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

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

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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