



H.C.P(MD)No.1620 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 11.07.2023

CORAM :

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

H.C.P(MD)No.1620 of 2022

Carolyn

.. Petitioner

vs.

1.State of Tamil Nadu,
Rep by the Principal Secretary to Government,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Chennai - 600 009.

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

3.The Superintendent,
Central Prison,
Madurai.

... 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 proceedings of the second respondent in Detention Order No. 71/BCDFGISSSV/2022 dated 12.09.2022 and quash the same and set the



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petitioner's son, namely, Jamesraja, S/o.Francis, aged about 29 years, at liberty from Central Prison, Madurai / 3rd respondent.

For Petitioner : Mr.M.Jagadeesh Pandian

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 mother of the detenu viz., Jamesraja, S/o.Francis, aged about 29 years. The detenu has been detained by the second respondent by order in No.71/BCDFGISSSV/2022 dated 12.09.2022 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 has relied upon the order passed in CrI.M.P.No.4630/2022 dated 03.09.2022 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 submitted that the detaining authority was aware of the fact that the detenu filed bail application in the ground case and the same is pending. The learned counsel for the petitioner 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 submitted that on completion of investigation, Charge Sheet has been filed in S.C.No.212 of 2023 on the file of the III Sub Court, Madurai and is pending disposal.

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.



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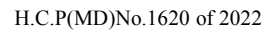
4630/2022 dated 03.09.2022, the accused therein was enlarged on bail since he had no bad antecedents. However, in the present case, the detenu has two previous cases. Hence, the order that was relied upon by the detaining authority cannot be considered to be an order passed in a similar case.

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. 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 No.71/BCDFGISSSV/2022 dated 12.09.2022 passed by the second respondent is set aside. The detenu, viz., Jamesraja, S/o.Francis, aged about 29 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.)
11.07.2023

NCC : Yes/No
Index : Yes/No
Speaking/Non-speaking order
mbi



1. The Principal Secretary to Government,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Chennai - 600 009.
2. The Commissioner of Police,
Madurai City,
Madurai.
3. The Superintendent,
Central Prison,
Madurai.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
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