



HCP(MD)No.2054 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.2054 of 2022

M.Velanganni

... Petitioner/Father of Detenu

Vs

1. The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St George, Chennai 600009.
2. The District Collector and District Magistrate
of Dindigul District,
Office of the District Collector,
Dindigul, Dindigul District.
3. The Superintendent of Prison,
Central Prison, Madurai.
4. The Inspector of Police,
Dindigul Taluk Police Station,
Dindigul District.

... Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus calling for the records pertaining to the impugned detention order passed by the second respondent made in his proceedings in Detention Order No.72/2022, dated 07.08.2022 in detaining the detenu



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under Section 2(f) of the Tamil Nadu Act 14 of 1982 as a GOONDA and quash the same and direct the respondents to produce the detenu namely Sesu Nazareth, S/o.Velanganni, Male, Aged about 30 years, who is now detained in Central Prison, Madurai before this Court and set him at liberty.

For Petitioner : Mr.M.Suresh

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

The petitioner is the detenu viz., Sesu Nazareth aged about 30 years, S/o.Velankanni. The detenu has been detained by the second respondent by his order in Detention Order No.72/2022, dated 07.08.2022 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



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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 through the bail application filed by the detenu was dismissed, came to the conclusion that there is a real possibility of the detenu coming out on bail by filing another bail application by relying upon the order passed in CrI.M.P.No.572/2018. The learned counsel therefore submitted that the order that was relied upon by the detaining authority is not similar, since in that case, bail was granted on the ground that the investigation was completed and the accused therein was in judicial custody more than 82 days and hence, 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 his counter.

5. On carefully going through the detention order, the detaining authority was aware of the fact that the bail application filed by the detenu came to be dismissed on 19.07.2022. However, the detaining authority took into consideration the order passed in CrI.M.P.No.572/2018 and came to the



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conclusion that there is a likelihood of the detenu coming out on bail by filing another bail application. Perusal of the order shows that the accused therein had already suffered more than 82 days incarceration and the investigation was over and 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 Detention Order No.72/2022, dated 07.08.2022 passed by the second respondent is set aside. The detenu, viz., Sesu Nazreth S/o.Velanganni, aged about 30 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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To

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Dindigul District.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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and
M.NIRMAL KUMAR,J.

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