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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 13.10.2015

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU
and
THE HONOURABLE MR.JUSTICE V.S.RAVI

H.C.P (MD) No.1013 of 2015

Vijaya Kumar

.. Petitioner

Vs.

1.The Commissioner of Police,
Tiruchirappalli City,
Tiruchirappalli.

2.The State rep. by
The Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat,
Chennai-600 009.

3.The Inspector of Police,
Srirangam Police Station,
Trichy.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus, to call for the records in C.No.21/Detention/C.P.O./T.C/2015, dated 10.06.2015 and direct the Respondents herein to produce the detenu, Ramesh, S/o.Rengasamy, aged 23 years, who has been termed as "GOONDA" and now confined in Central Prison, Trichy herein and set aside the same and set the detenu at liberty.

For Petitioner : Mr.T.Senthil Kumar

For Respondents : Mr.T.Mohan

Additional Public Prosecutor.

O R D E R

[Order of the Court was made by S.NAGAMUTHU,J]

The petitioner is the brother of the detenu, namely, Ramesh, aged 23 years. The detenu has been detained under the Tamil Nadu Act 14 of 1982 as per the order of the first respondent in his proceedings in C.No.21/Detention/C.P.O./T.C/ 2015, dated 10.06.2015, branding him as "Goonda". Challenging the same, the petitioner has come before this Court with this Habeas Corpus Petition.



2. We have heard the learned counsel appearing for the petitioner and learned Additional Public Prosecutor appearing for the State. We have also perused the records carefully.

3. Though several grounds have been raised in this petition, the learned counsel for the petitioner would focus his argument on the ground that the so called subjective satisfaction said to have been arrived at by the Detaining Authority that there was real possibility of the detenu coming out on bail in the ground case is not based on any material.

4. The learned Additional Public Prosecutor would submit that the subjective satisfaction arrived at on the basis that for the similar ground, bail was granted to the similarly placed persons.

5. We have considered the above submissions.

6. Admittedly, the application filed by the petitioner before the District and Sessions Court, Tiruchirappalli in Cr.M.P.No.1282 of 2015, seeking bail in the ground case in Crime No.638 of 2015 was dismissed. Even then the Detaining Authority has stated that he inferred that there was a real possibility of the detenu coming out on bail. When there was no bail application filed and there was not even any steps are taken to move for bail, it is not known, as to how the Detaining Authority has come to the conclusion that there was real possibility of the detenu coming out on bail. It shows the total non application of mind on the part of the detaining authority. In such view of the matter, the detention order is liable to be set aside.

7. In the result, this Habeas Corpus Petition is allowed and the impugned Detention Order, passed by the first respondent, in his proceedings in C.No.21/Detention/C.P.O./T.C/ 2015, dated 10.06.2015, is quashed. The detenu, namely, Ramesh, S/o.Rengasamy, aged 23 years, is ordered to be set at liberty forthwith, if he is not required for detention in connection with any other case.

Sd/-

Assistant Registrar(CO)

/True copy/

Sub Assistant Registrar

PJL

To

<https://hcservice.courts.mis.gov.in/>
The Commissioner of Police,
Tiruchirappalli City,
Tiruchirappalli.



2.The Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat,
Chennai-600 009.

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3.The Inspector of Police,
Srirangam Police Station,
Trichy.

4.The Superintendent of Central Prison,
Central Prison,
Tiruchirappalli.(In duplicate to communicate the detenu)

5.The Joint secretary to Government,
Public (Law and Order), Fort St., George, Chennai-9

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

+1 cc to Mr.T.Senthil Kumar, Advocate SR NO.60669

ORDER MADE IN
H.C.P (MD) No.1013 of 2015
13.10.2015

rg.15.10.2015/NGM.SS/SAR-II 3P/9C.