



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.10.2015

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

and

THE HONOURABLE MR.JUSTICE V.S.RAVI

H.C.P (MD) No.1090 of 2015

Manickam

..Petitioner

Vs.

1.The Secretary to Government,
Home, Prohibition and
Excise Department,
State of Tamilnadu,
Secretariat, Fort St.George,
Chennai-600 009.

2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Tiruchirappalli District,
Tiruchirappalli.

3.The Superintendent of Prison,
Trichy Central Prison,
Tiruchirappalli District,
Tiruchirappalli.

..Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus, to call for the entire records connected with the detention order of the 2nd respondent in Cr.M.P. No.27/2015, dated 04.07.2015 and quash the same and direct the Respondents to produce the detenu by name Kanagaraj, Son of Manickam, aged about 24 years, now detained in Tiruchirappalli Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.M.Benazir Begum

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 father of one Mr.Kanagaraj, aged 24 years. The detenu has been detained under the Tamil Nadu Act 14 of 1982, as per the order of the second respondent in Detention Order Cr.M.P.No.27/2015, dated 04.07.2015, branding him as a "Goonda". Challenging the same, the petitioner is 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.

<https://hcservices.ecourts.gov.in/hcservices/> several grounds have been raised in this petition, the learned counsel for the petitioner would focus his argument only on the ground that there was no bail application filed in the Crime No.154 of



2011. Even then, the Detaining Authority has stated that there was a real possibility of the detenu coming out on bail. The learned counsel for the petitioner would submit that to substantiate this, there was no material at all placed before the Detaining Authority.

4. The learned Additional Public Prosecutor is not in a position to dispute in the above fact.

5. We have considered the above submissions.

6. In our considered view, the detenu had not made any application at all for seeking bail before any Court. 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 second respondent, in his Detention Order in Cr.M.P. No.27/2015, dated 04.07.2015, is quashed. The detenu, namely, Kanagaraj, Son of Manickam, aged about 24 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(AS)

/True copy/

Sub Assistant Registrar

To

1.The Secretary to Government,
Home, Prohibition and Excise Department,
State of Tamilnadu,
Secretariat, Fort St.George,
Chennai-600 009.

2. The Joint Secretary to Government,
Public (Law & Order) Department,
Fort St.George, Secretariat, Chennai-9.

3.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Tiruchirappalli District,
Tiruchirappalli.

4. The Director General of Police,
(Law & Order) Chennai.

5.The Superintendent of Prison,
Trichy Central Prison, Tiruchirappalli District,
Tiruchirappalli.

(in duplicate for communicate to the detenu)



6. The Commissioner of Police,
Trichy District.

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

+1cc to Mr.M.Benazair, Advocate in SR.63101

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28.10.2015

PJL

PBK/GSV-PM/SAR-II 03/11/2015 ::3P-10C::