



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.1107 of 2015

Subin @ Chinna Subin

..Petitioner

Vs.

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

2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Kanyakumari District,
Nagercoil.

..Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus, to call for the call for the records relating to the impugned order of detention made in P.D.No.27/2015 dated 19.06.2015 on the file of the District Collector and District Magistrate, Kanyakumari District Nagercoil, the 2nd respondent herein, branding the detenu by name Subin alias Chinna Subin, aged about 28 years, S/o.Vincent, as "GOONDA" who is now confined in Central Prison, Palayamkottai and Quash the impugned order of detention and set him at liberty by producing him before this Honourable Court.

For Petitioner : Mr.A.Thiruvadi 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 detenu Mr.Subin @ Chinna Subin, aged 28 years. He has been detained under the Tamil Nadu Act 14 of 1982, as per the order of the second respondent in Detention Order in P.D.No.27/2015, dated 19.06.2015, 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.

3. Though 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.126 of 2015. 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 P.D.No.27/2015, dated 19.06.2015, is quashed. The detenu, namely, Subin alias Chinna Subin, aged about 28 years, S/o.Vincent, is ordered to be set at liberty forthwith, if he is not required for detention in connection with any other case.

Sd/-

Assistant Registrar (Per Admn)

/True copy/

Sub Assistant Registrar

To

1. THE SECRETARY TO GOVERNMENT,
HOME, PROHIBITION AND EXCISE DEPARTMENT, SECRETARIAT, CHENNAI-9.
2. THE DISTRICT COLLECTOR AND DISTRICT MAGISTRATE,
O/O. DISTRICT COLLECTOR AND DISTRICT MAGISTRATE,
KANYAKUMARI DISTRICT, NAGERCOIL.
3. THE SUPERINTENDENT OF PRISON,
CENTRAL PRISON, PALAYAMKOTTAI, TIRUNELVELI DISTRICT.
(IN DUPLICATE FOR COMMUNICATE TO THE DETENUE)
4. THE JOINT SECRETARY TO GOVT.,
PUBLIC (LAW & ORDER) DEPT., FORT ST.GEROGE, CHENNAI.
5. THE ADDITIONAL PUBLIC PROSECUTOR, MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1cc to Mr.A.Thiruvadikumar, Advocate in Sr.63298

H.C.P (MD) No.1107 of 2015
28.10.2015

pjl

PBK/NGM-SS/SAR-I 30/10/2015 ::2P-8C:: (IT)