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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.10.2015

CORAM:

THE HONOURABLE MR.JUSTICE **S.NAGAMUTHU**

and

THE HONOURABLE MR.JUSTICE **V.S.RAVI**

H.C.P(MD)No.1168 of 2015

Ammavasai

.. Petitioner

Vs.

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

2.The District Collector and District Magistrate,
Madurai District,
Madurai.

.. 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 pertaining to the proceedings of the 2nd respondent made in his proceedings C.M.P.No.11/2015, dated 08.06.2015 and quash the same and set the petitioner's son namely Gopal @ Pandu Gopal, S/o.Ammavasi, aged about 34 years, at liberty from Central Prison, Madurai.

For Petitioner : Mr.M.Jegadeesh Pandian
For Respondents : Mr.C.Ramesh
Additional Public Prosecutor

ORDER

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

The petitioner is the father of the detenu Mr.Gopal @ Pandu Gopal, aged 34 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 C.M.P.No.11/2015, dated 08.06.2015, 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 submit that though, it is stated in para No.5 of the Detention Order, that the petitioner has filed a petition seeking bail in Cr.M.P.No.3791/2015, dated 03.06.2015, before the learned Principal Sessions Judge, Madurai, in Crime No. 173 of 2015 on the file of the Vadipatti Police Station, the said document was not placed before the Detaining Authority and no copy has been furnished to the petitioner also. Thus, according to the learned counsel for the petitioner, the detention order had passed without application of mind.

4. The learned Additional Public Prosecutor would oppose the same.

5. We have considered the above submissions.

6. As rightly pointed out by the learned counsel for the petitioner in para No.5 of the Detention Order, it is stated that in Cr.M.P.No.3791/2015, dated 03.06.2015, the petitioner filed a petition seeking bail in Crime No. 173 of 2015. But neither a copy of the petition nor any other proceedings connected to the same had been made available to the Detaining Authority. If that be so, it is not known, as to how the Detaining Authority had come to know that the petition seeking bail had been filed by the petitioner in Cr.M.P.No.3791/2015, dated 03.06.2015 and copy of the said petition also has not been furnished to the detenu. 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 proceedings in C.M.P.No.11/2015, dated 08.06.2015, is quashed. The detenu, namely, Gopal @ Pandu Gopal, S/o.Ammavasi, aged about 34 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(T&P)

/True Copy/



To

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

2. The District Collector and District Magistrate,
Madurai District,
Madurai.

3. The Superintendent of Prison,
Central Prison, Madurai.
(In Duplicate for communication to the detenu)

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

+1cc to Mr.M.Jagadeesh Pandian, Advocate Sr.No.62697

akm /03.11.15 /3p-6c/

ORDER MADE IN
H.C.P (MD) No.1168 of 2015
27.10.2015