



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:07.09.2015

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

and

THE HONOURABLE MR.JUSTICE V.S.RAVI

H.C.P(MD)No.456 of 2015

Ulagammal

.. Petitioner

Vs.

1. State of Tamilnadu,
Rep. by the Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St. George, Chennai-9.

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

.. 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 of detention order passed in M.H.S.Confdl.No.17/2015 dated 08/03/2015 on the file of the 2nd respondent herein and set-aside the same as illegal and direct the respondents to produce the body or person of the petitioners son namely Arun Ulaganathan, S/o. Vanumamalai, aged about 37 years, before this Court and set him at liberty.

For Petitioner : Mr.K.Sudalaiyandi

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 mother of the detenu namely, Arun Ulaganathan, S/o. Vanumamalai, aged at 37 years, who has been detained under the Tamil Nadu Act 14 of 1982 by the order of the second respondent, in his proceedings in M.H.S.Confdl No.17/2015, dated 08.03.2015, 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 for the petitioner and the learned Additional Public Prosecutor for the respondents.

3. Though several grounds have been raised in this petition, the learned counsel for the petitioner would mainly focus his argument on the ground that the subjective satisfaction arrived at by the Detaining Authority that there was every real possibility for the detenu to come out on bail is not based on any material and thus, the detention order is liable to be set aside.

4. The learned Additional Public Prosecutor would, however, oppose this petition.



5. We have considered the above submissions and we have also perused the records carefully.

6. In paragraph No.6 of the detention order, it is mentioned that the detenu was in judicial remand, in connection with the case in Crime No. 415 of 2015 for the offences under Sections 147, 148, 447 of I.P.C. and Section 3(1) of TNPPDL Act r/w Section 3(1) (x) of Scheduled Castes and Scheduled Tribes (Preventions of Atrocities) Act, 1989. It is further mentioned in the order that the detenu had filed an application seeking bail before the learned Judicial Magistrate, Nanguneri. The Detaining Authority has stated that there was real possibility of him coming out on bail in the said case, in the event, bail is granted by the learned Judicial Magistrate. In order to substantiate the contention that there was real possibility of the detenu to come out on bail, the Detaining Authority has relied on the order of bail granted in Cr.M.P.No.4016 of 2013 dated 30.08.2013 by the learned Principal Sessions Judge.

7. As rightly contended by the learned counsel for the petitioner, the offences allegedly committed by the detenu are to be tried only before the Special Court, under the SC/ST Act and therefore, there was no possibility for the learned Judicial Magistrate to grant bail. In the similar case bail was granted only by the Sessions Judge and not by the Magistrate. This has not been considered by the Detaining Authority. This shows the non-application of mind of the Detaining Authority. In such view of the matter, we are inclined to allow this petition and set aside the impugned detention order.

8. In the result, this Habeas Corpus Petition is allowed and the impugned Detention Order, passed by the second respondent, in his Proceedings in M.H.S.Confdl.No.17/2015 dated 08/03/2015, is quashed. The detenu, by name, Arun Ulaganathan, S/o.Vanumamalai, aged about 37 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(Crl.side)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary to Government, Home, Prohibition and Excise Department, Secretariat, Fort St. George, Chennai-9.
2. The District Collector and District Magistrate, Tirunelveli District, Tirunelveli.
3. The Superintendent of Prison, Central Prison, Palayamkottai, Tirunelveli District. (with copies to communicate to the detenu)
4. The Additional Public Prosecutor, Madurai Bench of Madras High Court, Madurai.
5. The Joint Secretary, Public (Law & order) Fort.St.George, Chennai-9, 1CC to Mr.K. Sudalaiyandi, Advocate, SR.No. 52194

ORDER MADE IN
H.C.P (MD) No.456 of 2015
07.09.2015