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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.08.2015

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

and

THE HONOURABLE MR.JUSTICE V.S.RAVI

H.C.P (MD) No. 539 of 2015

Dhanya Anilkumar

.. Petitioner

Vs.

1. The State of Tamilnadu,
rep. by its Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai-9.

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

3.The Inspector of Police,
Alangulam Police Station,
Tirunelveli District.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus, to call for the the records relating to the detention order passed by the 2nd respondent in M.H.S. Confdl. No.04/2015, dated 10.01.2015 and to quash the same and direct the respondents to produce the body of the detenu, Anilkumar, S/o. Karunakaran, aged about 33 years, now detained at Central Prison, Palayamkottai before this Court and set him at liberty.

For Petitioner : Mr.N.S.Sivakumar

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 wife of one Mr.Anilkumar. Mr.Anilkumar has been detained under Act 14 of 1982 on the orders of the District Collector and District Magistrate, Tirunelveli District / the second respondent, by his proceedings in M.H.S.Confl.No.04/2015, dated 10.01.2015. Challenging the same, the petitioner is before this Court.

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



3. Though several grounds have been raised, the learned counsel for the petitioner would confine his argument mainly on one ground, i.e., as per the detention order, the Detaining Authority has come to the subjective satisfaction that the detenu was likely to be released on bail, since in a similar case bail was granted by the learned Judicial Magistrate, Tenkasi, in Cr.M.P.No.1993 of 2008, dated 21.02.2008. The learned counsel for the petitioner would submit that the said order was passed by the learned Magistrate under Section 167 Cr.P.C. since charge sheet was not filed within the statutory period. Thus, according to the learned counsel for the petitioner, the said case cannot be treated as a similar case.

4. The learned Additional Public Prosecutor would, however, oppose this Habeas Corpus Petition. According to him, the satisfaction arrived by the Detaining Authority is based on the relevant materials and thus, there is no reason to interfere the order of detention.

5. We have considered the above submissions. In paragraph No.5 of the detention order, it is stated that the Detaining Authority was aware that in similar case bail had been granted to one Mr.Suresh @ Pirasath in Cr.M.P.No.1993 of 2008, dated 21.02.2008, by the learned Judicial Magistrate, Tenkasi. A perusal of the said order filed, along with the typed set of papers, would go to show that Mr.Suresh @ Pirasath was granted bail under Section 167 Cr.P.C. since the investigation was not completed within the statutory period. But, in the instant case, the detenu was remanded to custody on 06.12.2014, whereas the detention order was passed on 10.01.2015. Therefore, as on 10.01.2015, there was no likelihood of the detenu being released on compulsory bail under Section 167 Cr.P.C.

6. In such view of the matter, the subjective satisfaction arrived at by the Detaining Authority is not based on any sound reason. It shows the non application of mind on the part of the Detaining Authority. Hence, we are inclined to set aside the impugned order.

7. In the result, this Habeas Corpus Petition is allowed and the impugned order, dated 10.01.2015, passed by the District Collector cum District Magistrate, Tirunelveli District, in his Proceedings in M.H.S.Confdl. No.04/2015, is hereby quashed. The detenu, by name, Anilkumar S/o.Karunakaran, aged about 33 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

/True Copy/

Sub Assistant Registrar



To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai-9.
- 2.The District Collector and District Magistrate,
Tirunelveli District, Tirunelveli.
- 3.The Inspector of Police,
Alangulam Police Station, Tirunelveli District.
- 4.The Superintendent,
Central Prison, Palayamkottai,
Tirunelveli District. (in duplicate to communicate the detenu)
- 5 The Joint Secretary, Government of Tamil Nadu,
Public (Law & order) Department, Fort St. George, Chennai.
- 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to M/S.D.RAMES KUMAR, Advocate in SR.No.50651

TS/01.09.2015/3P - 9C AAL-MPA/SAR -I

ORDER MADE IN
H.C.P (MD) No.539 of 2015

31.08.2015