



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.09.2015

CORAM:

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

and

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

H.C.P(MD)No.597 of 2015

Seethalakshmi

.. Petitioner

Vs.

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

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

3.The Superintendent of Prison,
Central Prison, Palayamkottai,
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 entire records of detention order passed in H.S(M) Confdl.No.29 of 2015, dated 11.04.2015 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 petitioner's son namely, Sivakumar @ Raja @ Kattaraja, Son of Duraipandian aged about 27 years, before this Honourable Court and set him at liberty.

For Petitioner : Mr.K.Sudalaiyandi

For Respondents : Mr.T.Mohan

Additional Public Prosecutor.

ORDER

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

The petitioner is the mother of one Mr.Sivakumar @ Raja @ Kattaraja, aged 27 years. He has been detained under the Tamil Nadu Act 14 of 1982 as per the order of the second respondent in his proceedings in H.S(M) Confdl.No.29 of 2015, dated 11.04.2015, branding him as "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 the petition, the learned counsel for the petitioner would focus his arguments on the ground that the subjective satisfaction arrived at by the Detaining Authority that the detenu is likely to be release on bail is baseless. He further submit that it shows the total non-application of mind on the part of 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 submission and gone through the records carefully.

6. A perusal of the impugned order would go to show that the detenu had filed an application seeking bail before the Madurai Bench of Madras High Court in Crl.O.P.(MD).No.6262 of 2015, in Crime No.275 of 2015. Though the said petition is pending without assigning any reason, the Detaining Authority has stated that there was likelihood of the detenu coming out on bail. The Detaining Authority had not referred to any similar case wherein, the detenu has got bail. In our considered view, the said satisfaction arrived at by the Detaining Authority is based on no material. Therefore, 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 H.S(M) Confdl.No.29 of 2015, dated 11.04.2015, is quashed. The detenu, namely, Sivakumar @ Raja @ Kattaraja, Son of Duraipandian, aged aout 27 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 (RTI)

/True Copy/

Sub Assistant Registrar

To

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

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

3.The Superintendent of Prison, Central Prison, Palayamkottai, Tirunelveli District.

(In Duplicate to communicate the detenu)

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

5. The Joint Secretary to Government, Public (Law and Order), Fort St.George, Chennai -9.

+lcc to Mr.K.Sudalaiyandi, Advocate Sr.No.55714

akm/28.09.2015 /2p-8c/