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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.617 of 2015

Balakrishnan

.. Petitioner

Vs.

1. State represented by,
The District Collector and District Magistrate,
Tirunelveli District,
Tirunelveli.

2. The Principal Secretary to Government,
Home, Prohibition and Excise (XIV) Department,
Secretariat, Fort St. George,
Chennai-9.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus, calling for the call for the records from the first respondent in M.H.S.Confdl.No.45/2015, dated 15.04.2015 by setting aside the said order of detention passed by the first respondent and setting the detenu Kannan alias Manal Kannan, aged 39 years, S/o.Natarajan, at liberty now detained in the Central Prison, Palayamkottai.

For Petitioner : Mr.K.Prabhu

For Respondents : Mr.T.Mohan
Additional Public Prosecutor.

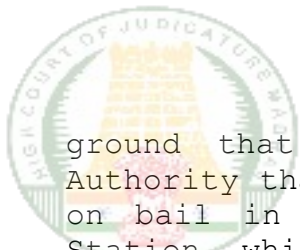
O R D E R

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

The petitioner is the brother of the detenu namely, Kannan @ Manal Kannan, S/o.Natarajan, aged at 39 years, who has been detained under the Tamil Nadu Act 14 of 1982 by the order of the first respondent, in his proceedings in M.H.S.Confdl No.45/2015, dated 15.04.2015, 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 in Crime No.110 of 2015 on the file of the Valliyoor Police Station, which is an adverse case, is not based on any material and thus, the detention order is liable to be set aside.

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4. The learned Additional Public Prosecutor is not in a position to dispute in the above fact.

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

6. Admittedly, there was no application filed for bail in the ground case by the detenu. When that be so, it is strange as to how the Detaining Authority has come to the satisfaction that the detenu would file an application for bail and come out on bail. Thus, the satisfaction of the Detaining Authority that there was real possibility that the detenu would come out on bail is baseless and 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 first respondent, in his Proceedings in M.H.S.Confdl.No.45/2015 dated 15.04.2015, is quashed. The detenu, by name, Kannan @ Manal Kannan, S/o.Natarajan, aged at 39 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 District Collector and District Magistrate,
Tirunelveli District, Tirunelveli.
 2. The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St. George, Chennai-9.
 3. The Superintendent of Prison, Central Prison,
Palayamkottai, Tirunelveli District.
(in duplicate to communicate the detenu)
 - 4 The Joint Secretary, Government of Tamil Nadu,
Public (Law & order) Department, Fort St. George, Chennai.
 5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
- +1cc to M/S. K.Prabhu, Advocate in SR.No 52644

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ORDER MADE IN
H.C.P (MD) No.617 of 2015
07.09.2015