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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.09.2015

CORAM:

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

and

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

H.C.P(MD)No.641 of 2015

Esakkiammal

.. Petitioner

Vs.

1.Principal Secretary to Government,
Home, Prohibition and Excise (XIV) Department,
Secretariat,
Chennai.

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

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

4.The Superintendent of Central Jail,
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 records in M.H.S.Confl.No.46/2015 dated 20.04.2015 on the file of the 2nd respondent and to set aside the same and direct the 4th respondent to release the petitioner's husband Kanthavel alias Kanthan, aged 38 years, S/o.Paramasiva Thevar from the Central Jail, Palayamkottai and set at liberty.

For Petitioner : Mr.P.Ramasamy

For Respondents : Mr.T.Mohan

Additional Public Prosecutor.

ORDER

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

The petitioner is the wife of the detenu, namely Kanthavel, aged 38 years. The detenu has been detained under the Tamil Nadu
<https://hcservices.ecourts.gov.in/hcservices/>
Act 14 of 1982 as per the order of the second respondent in his proceedings in M.H.S.Confl.No.46/2015, dated 20.04.2015, 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. We have also perused the records carefully.

3. Though several grounds have been raised in this petition, the learned counsel for the petitioner would focus his arguments on the ground that the so called subjective satisfaction said to have been arrived at by the Detaining Authority that there was real possibility of the detenu would come out on bail is not based on any material. He would further point out that as mentioned in paragraph No.6 of the detention order, the detenu had not moved any application before any Court for bail.

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

5. We have considered the above submissions.

6. It is crystal clear that in Crime Nos.51 of 2015 and 61 of 2015, the detenu had not filed any application for bail before any Court. If that be so, it is strange as to how the Detaining Authority had come to the satisfaction that there was real possibility of the detenu would come out on bail.

7. In our considered view, the said satisfaction is based on no material. Therefore the detention order is liable to be set aside.

8. In the result, this Habeas Corpus Petition is allowed and the impugned Detention Order, passed by the second respondent, in M.H.S.Confl.No.46/2015, dated 20.04.2015, is quashed. The detenu, namely, Kanthavel alias Kanthan, aged 38 years, S/o.Paramasiva Thevar, 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/

Sub Assistant Registrar



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1. The Principal Secretary to Government,
State of Tamilnadu,
Home, Prohibition and Excise Department,
Fort St.George, Chennai -9.
2. District Collector and District Magistrate,
Tirunelveli District,
Tirunelveli.
3. The Inspector of Police
Munneerpallam Police Station,
Tirunelveli District.
4. The Superintendent of Central Jail,
Palayamkottai,
Tirunelveli District.
5. The Joint Secretary,
Public (Law and Order),
Fort St.George, Chennai-600009.
6. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Pjl
AA/15.09.2015/3p-7c

ORDER MADE IN
H.C.P (MD) No.641 of 2015
08.09.2015