



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.09.2015

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

and

THE HONOURABLE MR.JUSTICE V.S.RAVI

H.C.P(MD)No.660 of 2015

Malliga

.. Petitioner

Vs.

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St. George,
Chennai-9.

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

.. 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 pertaining to the impugned detention order passed by 2nd respondent made in his proceedings in Cr.M.P.No.13/Goonda/2015, dated 13.04.2015 in detaining the detenu under Section 2(f) of Tamilnadu Act 14 of 1982 as a GOONDA and quash the same and direct the respondents to produce the Detenu namely, Arjunan, S/o.Andiyappan, Male, aged about 31 years, who is detained in Central Prison, Tiruchirappalli before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.K.M.K.Karunakaran

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 the detenu namely, Arjunan, S/o.Andiyappan, aged at 31 years, who has been detained under the Tamil Nadu Act 14 of 1982 by the order of the second respondent, in his proceedings in Cr.M.P.No.13/GOONDA/2015, dated 13.04.2015, 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 is not based on any material and thus, the detention order is baseless and reflecting the total non application of mind of the Detaining Authority. This, according to the learned counsel for the petitioner is totally baseless and reflecting the total non application of mind 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 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 coming 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 second respondent, in his Proceedings in Cr.M.P.No.13/Goonda/2015, dated 13.04.2015, is quashed. The detenu, by name, Arjunan, S/o.Andiyappan, aged at 31 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,
Sivagangai District,
Sivagangai.
 3. The Superintendent of Prison,
Central Prison,
Tiruchirappalli District.(with copies to communicate to the detenu)
 4. The Joint Secretary to Government Public (Law and Order)Department,
Fort St.George, Chennai.
 5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- +1CC to Mr.K.M.Karunakaran, Advocate, SR.No. 55888

ORDER MADE IN
H.C.P (MD) No.660 of 2015
21.09.2015