



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.09.2015

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

and

THE HONOURABLE MR.JUSTICE V.S.RAVI

H.C.P (MD) No.717 of 2015

R.Mariappan

.. Petitioner

Vs.

1. The Commissioner of Police,
Tirunelveli City, Tirunelveli.

2.The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.

3. The Inspector of Police,
Palayamkottai Police Station,
Tirunelveli City.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus, directing the respondents to produce the person or body of detainee namely M.Vinoth Pandian alias Vinoth aged about 25 years Son of R.Mariappan before this Court who is now detained in the Central Prison, Palayamkottai in pursuant to the detention order passed by the first respondent in No.33/BCDFGISSSV/2015 dated 06.04.2015 and to call for the records and pass such further or other orders as this Court may deem fit and proper in the circumstances of the case.

For Petitioner : Mr.N.Mohideen Basha

For Respondents : Mr.T.Mohan

Additional Public Prosecutor

O R D E R

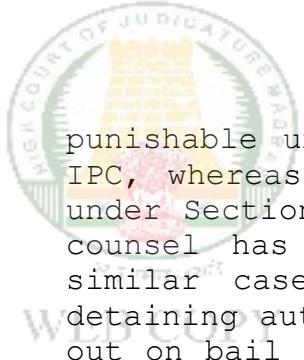
[Order of the Court was made by **S.NAGAMUTHU, J**]

The petitioner is the father of one M.Vinoth Pandian alias Vinoth, who has been detained under Tamil Nadu Act 14 of 1982, under the proceeding of the first respondent No.33/BCDFGISSSV/2015 dated 06.04.2015. 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 respondents.

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3.the learned counsel for the petitioner would submit that one adverse case was registered in Crime No.113 of 2015 for the offences



punishable under Sections 147, 148, 294(b), 341, 302, 506(ii) and 120(b) IPC, whereas, the ground case was registered for the offences punishable under Sections 147, 148, 341, 294(b), 387, 307 and 506(ii) IPC. The learned counsel has pointed out that the ground case is concerned, there are similar cases and the particulars are available on record before the detaining authority to arrive at the conclusion that the detenu would come out on bail in that case. Insofar as the case in Crime No.113 of 2015 is concerned, there is no similar case and there are no particulars. Therefore, satisfaction arrived at by the detaining authority that the detenu would come out on bail is totally baseless.

4. We have considered the above submissions and perused the records carefully.

5. Insofar as the case in Crime No.113 of 2015 is concerned, it is the case of murder and the case in Crime No.115 of 2015 is concerned, it is the case of attempt murder. So far as the case in Crime No.115 of 2015 is concerned, particulars are available regarding similar cases. In Crime No.113 of 2015 is concerned, no such materials were available before the detaining authority to satisfy that there was possibility for the accused to come out on bail.

6. In such view of the matter, we hold that the detaining authority has passed the detention order as a result of non application of mind. Therefore, the detention order passed by the first respondent in No.33/BCDFGISSSV/2015 dated 06.04.2015 is liable to be set aside.

7. In the result, this Habeas Corpus Petition is allowed and the impugned Detention Order, passed by the 1st respondent, in his proceedings in No.33/BCDFGISSSV/ 2015 dated 06.04.2015 is quashed. The detenu by name, M.Vinoth Pandian alias Vinoth S/o Mr.R.Mariappan, 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 Commissioner of Police, Tirunelveli City, Tirunelveli.
2. The Secretary to the Government, Home, Prohibition and Excise Department, Secretariat, Chennai - 600 009.
3. The Joint Secretary, Government of Tamil Nadu, Public (Law & order) Department, Fort St. George, Chennai - 9
4. The Inspector of Police, Palayamkottai Police Station, Tirunelveli City.
5. The Superintendent, Central prison, Palayamkottai, Tirunelveli District. (in duplicate to communicate the detenu)
6. The Additional Public Prosecutor, Madurai Bench of Madras High Court, Madurai.

+lcc to M/S. N.Mohideen Basha Advocate in SR.No 54692

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ORDER MADE IN

H.C.P (MD) No.717 of 2015

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