



WEB COPY

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.748 of 2015

M.Kanagaraj

.. Petitioner

Vs.

1. State of Tamilnadu

Rep. by the Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai -9.

2.The District Magistrate and District Collector,
Velunachiar Valagam,
Dindigul - 624 004.

3.The Superintendent of Prison,
Central Prison,
Madurai.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus, to call for the entire records of detention order passed in Detention Order No.32 of 2015, dated 12.05.2015, on the file of the 2nd respondent herein and set aside the same as illegal and direct the respondents to produce the person or body of the petitioner's son namely Srinivasan, S/o. Kanagaraj, aged about 24 years before this court and set him at liberty from Central Prison, Madurai.

For Petitioner : Mr.R.Sudalaiyandi

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 Mr.Srinivasan, who has been detained under the Tamil Nadu Act 14 of 1982 as per the order of the second respondent in his Detention Order No.32 of 2015, dated 12.05.2015, 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 appearing for the petitioner and learned Additional Public Prosecutor appearing for the State. We have also perused the records carefully.

Though several grounds have been raised in the petition, the learned counsel for the petitioner would focus his arguments on the main ground that the subjective satisfaction said to have been



arrived at by the Detaining Authority that there was a real possibility for the detenu to come out on bail is not based on any material. He would point out that as mentioned in paragraph No.5 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 the above fact.

5. We have considered the above submissions.

6. It is crystal clear that in Crime No.166 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 coming out on bail. In our considered view, the said satisfaction 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 Detention Order No.32 of 2015, dated 12.05.2015 is quashed. The detenu, namely, Srinivasan, S/o.Kanagaraj, aged at 24 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 (Writs)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary to Government,
Home, Prohibition and Excise Department, Fort St. George, Chennai -9.
2. The District Magistrate and District Collector,
Velunachiar Valagam, Dindigul - 624 004.
3. The Joint Secretary to Government, Public (Law and Order), Fort St. George, Chennai -9.
4. The Superintendent of Prison, Central Prison, Madurai.
(In Duplicate for communication to detenu)
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.K.Sudalaiyandi, Advocate Sr.No.52577

akm/11.09.2015 /2p-8c/