



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.777 of 2015

Bala Deiva

.. Petitioner

Vs.

1. The State of Tamilnadu,  
rep. by its Secretary to Government,  
Home, Prohibition & Excise Department,  
Fort St.George, Secretariat,  
Chennai-600 009.

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

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

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus, calling for the entire records relating to the impugned detention order passed in No.50/BCDFGISSSV/2015, dated 26.05.2015, on the file of the 2<sup>nd</sup> respondent herein and quash the same and direct the respondents to produce the detenu namely, E.Esakkimuthu alias Kumar, aged 33 years, S/o.Esakki Thevar alias Uppukkara Thevar, now confined in Central Prison, Palayamkottai before this Court and set him at liberty.

For Petitioner : Mr.S.Sundara Pandian

For Respondents : Mr.T.Mohan

Additional Public Prosecutor.

O R D E R  
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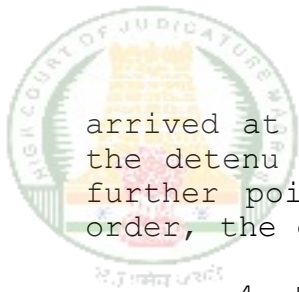
[Order of the Court was made by S.NAGAMUTHU,J]

The petitioner is the wife of the detenu, namely E.Esakkimuthu, aged 33 years. The detenu has been detained under the Tamil Nadu Act 14 of 1982 as per the order of the second respondent in his proceedings in No.50/BCDFGISSSV/2015, dated 26.05.2015 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.

<https://hcservices.ecourts.gov.in/hcservices/>

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 No.107 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 his proceedings in No.50/BCDFGISSSV/2015, dated 26.05.2015, is quashed. The detenu, namely, E.Esakkimuthu alias Kumar, aged 33 years, S/o.Esakki Thevar alias Uppukkara 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(Crl.Side)

/True Copy/

Sub Assistant Registrar.

To

1. The Secretary to Government, Home, Prohibition & Excise Department, Fort St.George, Secretariat, Chennai-600 009.
  - 2.The Commissioner of Police,Tirunelveli City, Tirunelveli.
  - 3.The Inspector of Police,Palayamkottai Police Station,Tirunelveli District.
  - 4.The Superintendent of Prison,Central Prison, Palayamkottai, Tirunelveli District. (with Copies to communicate to the detenu)
  - 5.The Joint Secretary to Government Public (Law and Order)Department, Fort St.George, Chennai.
  - 6.The Additional Public Prosecutor, Madurai Bench of Madras High Court, Madurai.
- +1CC to Mr.S.Sundarapandian, Advocate, SR.No. 55503

ORDER MADE IN  
H.C.P (MD) No.777 of 2015  
21.09.2015

AM/23.09.2015/GSV.PM/SAR-II/2P/9C