



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.10.2015

CORAM:

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

and

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

H.C.P(MD)No.810 of 2015

Gunaselviya

.. Petitioner

Vs.

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

2. The District Magistrate and District Collectorate,
Pudukkottai District,
Pudukkottai.

.. 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 P.D.O.No.16/2015 dated 28.05.2015 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, Sesu @Sesuraj, S/o.Francis, aged about 33 years, who is detained in Central Prison, Tiruchirappalli before this Court and set him at liberty.

For Petitioner : Mr.K.M.Karunakaran

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, Mr.Sesu @ Sesuraj, S/o.Francis, aged about 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 P.D.O.No.16 of 2015, dated 28.05.2015, 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 gone through the records carefully.

3. Though several grounds have been raised in this petition, the learned counsel for the petitioner would focus his argument on the so called subjective satisfaction arrived at by the Detaining Authority that there was real possibility of the detenu coming out of bail in the ground case is baseless.



4. The learned Additional Public Prosecutor would submit that the subjective satisfaction arrived at on the basis that for the similar ground, bail was granted to the similarly placed persons.

5. Admittedly, the application filed by the petitioner before the Principal District and Sessions Court, Pudukkottai, in Cr.M.P.No.850 of 2015 seeking bail in the ground case in Crime No.61 of 2015 was dismissed. However, the Detaining Authority has stated that the relatives of the detenu were taking steps to release the accused on bail. To arrive at such conclusion, absolutely there is no material was placed by the Sponsoring authority before the detaining authority. It shows the non application of mind of the detaining authority. In such view of the matter, the detention order is liable to be set aside.

6. In the result, this Habeas Corpus Petition is allowed and the impugned Detention Order, passed by the second respondent, in his proceedings in P.D.O.No.16/2015, dated 28.05.2015, is quashed. The detenu, namely, Sesu @ Sesuraj, S/o.Francis, aged about 33 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(AE)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St.George, Chennai-9.
2. The Joint Secretary to Government,
Public (Law and Order), Fort St.George, Chennai -9.
3. The District Magistrate and District Collectorate,
Pudukkottai District, Pudukkottai.
4. The Director General of Police, Chennai -4.
- 5.The Superintendent of Central Prison,
Central Prison, Trichy.
(In Duplicate for communication to the detenu)
- 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.K.M.Karunakaran, Advocate SR.No.60423

akm/14.10.2015 /2p-9c/