



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.823 of 2015

V.Sornam

..Petitioner

Vs.

1. State of Tamil Nadu,
rep. by the Secretary to Government,
Home, Prohibition and
Excise Department, Fort St.George,
Chennai-600 009.

2.The Commissioner of Police,
Tirunelveli City,
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 of detention order passed in No.34/BCDFGISSSV/2014, dated 19.12.2014, 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 V.Chinnamari, S/o.Late. Velsamy, aged about 45 years, before this Hon'ble Court and set him at liberty from Central Prison, Palayamkottai.

For Petitioner : Mr.John Sathyan
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 mother of the detenu Mr.Chinnamari. The detenu has been detained under Tamilnadu Act 14 of 1982 as per the order passed by the second respondent in his proceedings in No.34/BCDFGISSSV/2014, dated 19.12.2014, 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 the learned Additional Public Prosecutor appearing for the respondents.

3.Though several grounds have been raised in this petition, the learned counsel for the petitioner would focus his arguments on the ground that the subjective satisfaction arrived at by the Detaining Authority that there was real possibility of the detenu to come out on parole is not based on any material.

<https://hservices.courts.gov.in/hservices/>

4. We have considered the above submissions.



5. As pointed by the learned counsel for the petitioner, the Detaining Authority had come to the subjective satisfaction based on the bail granted to a similarly placed person in a similar case. As pointed out by the learned counsel for the petitioner in a similar case, the accused was granted bail not on merits, but as per the statutory compulsion under Section 167 Cr.P.C. But there was no such compulsion for the detenu being released on bail, because the detention order came to be passed, even before the expiry of the statutory period. In such view of the matter, we hold that the subjective satisfaction arrived at by the Detaining Authority is baseless. Accordingly, the impugned order is liable to set aside.

7. In the result, this Habeas Corpus Petition is allowed and the impugned Order, passed by the second respondent, in his proceedings in 34/BCDFGISSSV/2014, dated 19.12.2014 is quashed. The detenu, namely, Chinnamari, S/o.Late. Velsamy, aged about 45 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(CO)

/True copy/

Sub Assistant Registrar

To

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai-600 009.

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

3.The Superintendent of Prison,
Central Prison, Palayamkottai,
Tirunelveli District.
(in duplicate for communicate to detenue)

4. The Joint Secretary to Government,
Public (Law & Order) Department,
Fort St.George, Secretariat, Chennai-9.

5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to M/s.R.John Sathyan, Advocate in SR.No.52578

H.C.P (MD) No.823 of 2015
08.09.2015

pjl/rr.

PBK/AAL-MPA/SAR-I 22/09/2015 ::2P-8C::