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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.10.2015

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

and

THE HONOURABLE MR.JUSTICE V.S.RAVI

H.C.P (MD) No.956 of 2015

Muthu

.. Petitioner

Vs.

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

2. The District Collector and District Magistrate,
O/o. the District Collector and District Magistrate,
Tirunelveli District.

3.The Superintendent of Prison,
Palayamkottai Central Prison,
Tirunelveli District.

.. 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, connected with the detention order of the Respondent No.2 in M.H.S.Confdl No.62/2015, dated 31.05.2015 and quash the same and direct the Respondents to produce the detenu by name Murugesan alias Murugesh, Son of Muthu, aged about 28 years, now detained at Palayamkottai Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani

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.Murugesan @ Murugesh, aged at 28 years. He has been detained under the Tamil Nadu Act 14 of 1982 as per the order of the second respondent in M.H.S.Confdl No.62 of 2015, dated 31.05.2015 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.



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 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. 141 of 2015, the detenu had not filed any application seeking 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. 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 his proceedings in M.H.S.Confdl No.62 of 2015, dated 31.05.2015, is quashed. The detenu namely, Murugesan alias Murugesh, S/o.Muthu, aged about 28 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

/True Copy/

Sub Assistant Registrar

- To
1. The Secretary to Government, State of Tamilnadu,
Home, Prohibition and Excise Department, Secretariat, Fort St.George,
Chennai-9.
 2. The District Collector and District Magistrate,
O/o. the District Collector and District Magistrate,
Tirunelveli District.
 - 3.The Superintendent of Prison, Palayamkottai Central Prison,
Tirunelveli District. (in duplicate to communicate the detenu)
 4. The Joint Secretary, Government of Tamil Nadu,
Public (Law & order) Department, Fort St. George, Chennai.- 9.
 - 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

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18/12/2015

ORDER MADE IN
H.C.P (MD) No.956 of 2015
08.10.2015