



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.10.2015

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU
and

THE HONOURABLE MR.JUSTICE V.S.RAVI

H.C.P(MD)No.959 of 2015

Ambika

.. Petitioner

Vs.

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

2.The District Collector and District Magistrate,
Office of the District Collector and District
Magistrate, Madurai District.

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

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus, calling for the records relating to the detention order passed by the 2nd respondent in C.M.P.No.14 of 2015, dated 22.06.2015, quash the same and direct the respondents to produce the body or person of the detenu by name Aasaithambi, S/o.Karuthapandi, aged about 45 years, now detained at Madurai 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 wife of one Mr.Aasaithambi, S/o.Karuthapandi. He has been detained as per the order of the second respondent, dated 22.06.2015, under Section 2(gg) of the Tamilnadu Act 14 of 1982, branding him as "Sand Offender". Challenging the same, the petitioner has come up with this petition.

2.We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents. We have also perused the records carefully.

<https://hcservices.ecourts.gov.in/hcservices/> With several grounds have been raised in this petition, the learned counsel for the petitioner would mainly focus his argument on the ground that in Crime No.163 of 2015 neither the



remand order nor the remand extension order has been furnished to the petitioner and there was no record to show that the remand order was issued. But, the detaining authority has stated that the detenu had been remanded to judicial custody till 30.06.2015. To arrive such a conclusion, there was no material available before the detaining authority.

4. We find some force in the said argument. In the absence of the document being produced before the detaining authority, it is not known as to how the detaining authority came to the conclusion that the detenu has been remanded upto 30.06.2015. It shows the predetermination of the detaining authority and the subjective satisfaction arrived at by the detaining authority is not based on any material. In such view of the matter, we are inclined to set aside the impugned order.

5. In the result, this Habeas Corpus Petition is allowed and the impugned Detention Order in C.M.P.No.14 of 2015, dated 22.06.2015, passed by the second respondent is quashed. The detenu, by name, Aasaithambi, S/o.Karuthapandi, 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 (AS)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary to Government, Home, Prohibition and Excise Department, Fort St. George, Secretariat, Chennai-600 009.
2. The District Collector and District Magistrate, Office of the District Collector and District Magistrate, Madurai District.
3. The Joint Secretary to Government, Public (Law and Order), Fort St. George, Chennai -9.
4. The Superintendent of Prison, Madurai Central Prison, Madurai District.
(In Duplicate to communicate the detenu)
5. The Additional Public Prosecutor, Madurai Bench of Madras High Court, Madurai.
6. The Commissioner of Police, Madurai.

+1cc to Mr.R.Alagumani, Advocate Sr.No.58913

akm/08.10.15 /2p-9c/