

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.08.2016

CORAM

THE HON'BLE MR.JUSTICE S.NAGAMUTHU
and
THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

H.C.P.No.131 of 2016

Kalyani .. Petitioner

vs.

1. The Secretary to Government,
Government of Puducherry rep. by
Lieutenant Governor,
Rajnivas, Puducherry.

2. District Magistrate cum Authorised Officer,
I Floor, Revenue Complex,
Saram, Puducherry.

3.Secretary to Government,
Government of India,
Ministry of Home Affairs,
(Department of Internal Security),
North Block, New Delhi-110 001.

.. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus calling for the records in detention order passed in No.11/DM/RO/D2/PPASAA/2015 dated 4.12.2015 on the file of the 2nd respondent herein and set aside the same and direct the respondents to produce i.e. the body of, Soosairaj @ Soosai, son of Joesph Philip, the detenu herein now confined in Central Prison, Kalapet, Puducherry, before this Court and set him at liberty.

For Petitioner : Mr.C.M.Gunasekaran
For Respondent : Mr.E.Raja
Additional Public Prosecutor

ORDER

(Order of the Court was made by **S.NAGAMUTHU, J.**)

The petitioner is the mother of one Mr.Soosairaj @ Soosai, s/o Joseph Philip. The second respondent by his proceedings in No.11/DM/RO/D2/PPASAA/2015 dated 04.12.2015 has ordered to detain him for one year branding him as a "Goonda and Dangerous Person" as per the Puducherry Prevention of Anti-Social Activities Act, 2008. 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 State and we have also perused the records carefully.

3. A perusal of the detention order would go to show that the detainee is involved in as many as 14 criminal cases in which 3 are cases of murder and attempt to murder. In some of the cases, he has

been prosecuted even under the Arms Act. Declaring him as a Goonda and a Dangerous Person in terms of the Act, the second respondent has passed the detention order.

4. Assailing the said order, the learned counsel for the petitioner would submit that the representation made by the petitioner questioning the detention order has not been disposed of by the Government. But along with this Habeas Corpus Petition, no document has been produced to prove that any such representation has been really made.

5. The learned counsel would next contend that some of the papers in the documents submitted to the detenu are illegible. The purpose of furnishing the booklet to the detenu is to make him to know the materials upon which the order of detention has been made by the Detaining Authority. It is in a way a measure to the detenu to make effective representation. In this case, the detenu has not raised any issue regarding the illegibility of few pages in the document. On the ground that simply because one or two pages in the documents which are immaterial are illegible, we cannot hold that the detention order is vitiated.

6. The learned counsel would further submit that though in the detention order the Detaining Authority has stated that the detenu was in judicial remand as on the date of the order of detention, there was no material available before the Detaining Authority. This argument cannot be countenanced for the bail application filed by the detenu were all pending which would be sufficient for the Detaining Authority to come to a conclusion that the detenu was in judicial remand. Therefore, this ground is also rejected.

7. The learned counsel would next contend that a copy of the bail application filed in some other case by some other accused has been furnished. This also, in our considered view is not a valid ground because the bail applications concerned in these cases were all filed only by the petitioner and therefore, he was aware of the bail applications.

8. The learned counsel further submit that there was no imminent possibility of the detenu coming out on bail as there was no materials available for the Detaining Authority to arrive at a subjective satisfaction. A perusal of the detention order would go to show that there are materials upon which the Detaining Authority has satisfied

his conscience that there was imminent possibility of the detenu coming out on bail.

9. Thus, all the grounds raised by the learned counsel for the petitioner deserve only to be rejected. We do not find any merit at all in this Habeas Corpus Petition. Therefore, this petition fails and accordingly, dismissed.

[S.N.J.] [V.B.D.J.,]
08.08.2016

kua

Index: Yes/No

To

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4. The Public Prosecutor,
High Court, Madras.

**S.NAGAMUTHU, J.
AND
V.BHARATHIDASAN, J.**

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