



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.05.2016

CORAM:

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN
and
THE HONOURABLE MR.JUSTICE B.GOKULDAS

H.C.P(MD)No.129 of 2016

Muruganantham

.. Petitioner/ Detenu

Vs.

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat
Chennai - 600 009.
 - 2.The District Collector and District Magistrate,
Office of 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 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.06 of 2016 dated 22.01.2016 and quash the same and direct the respondents to produce the detenu namely, Muruganantham, S/o.Mariappan, aged about 25 years, detained in Palayamkottai Central Prison, before this Court and set him at liberty forthwith.

For Petitioner	: Mr.R.Alagumani
For Respondents	: Mr.C.Ramesh
	Additional Public Prosecutor

O R D E R

[Order of the Court was made by
M.V.MURALIDARAN, J. and B.GOKULDAS, J.]

The petitioner is the detenu, namely, Muruganantham. The detenu was detained by the second respondent by his order in M.H.S.Confdl.No.06 of 2016 dated 22.01.2016, holding him to be a "Goonda", as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982, taking note of the ground case in Crime No.07 of 2016 on the file of Seevalaperi Police Station registered for offences punishable under Sections 294(b), 506(ii) and 307 I.P.C. and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act and the following seven adverse cases:-

- (i) Crime No.93 of 2012 registered on the file of



Seevalaperi Police Station for offences punishable under Section 399 I.P.C., and Section 25(1) (a) Arms Act.

(ii) Crime No.126 of 2013 registered on the file of Seevalaperi Police Station for offences punishable under Sections 341 and 307 I.P.C.;

(iii) Crime No.10 of 2014 registered on the file of Seevalaperi Police Station for offences punishable under Sections 341, 294(b), 323 and 506(ii) I.P.C.;

(iv) Crime No.66 of 2014 registered on the file of Seevalaperi Police Station for offences punishable under Sections 147, 148, 341, 324 and 307 I.P.C.;

(v) Crime No.144 of 2014 registered on the file of Seevalaperi Police Station for offences punishable under Sections 341, 294(b) and 506(ii) I.P.C., and 4 of Tamil Nadu Prohibition of Harassment of Women Act;

(vi) Crime No.83 of 2015 registered on the file of Tirunelveli Taluk Police Station for offences punishable under Sections 147, 148, 341, 302, 120(b) I.P.C., r/w 149 I.P.C; and

(vii) Crime No.85 of 2015 registered on the file of Tirunelveli Taluk Police Station for offences punishable under Sections 341, 294(b), 387 and 506(ii) I.P.C.,

2. The Detaining Authority, expressing subjective satisfaction that the detenu conformed to the definition of "Goonda" and that his presence at large would be prejudicial to the maintenance of public order and public health and also expressing subjective satisfaction that it was very likely that the detenu would come out on bail in the ground case, passed the impugned detention order. The said order is challenged in the present Habeas Corpus Petition.

3. Though the order of detention is assailed on several grounds, the learned counsel for the petitioner primarily relies on the following contention:-

"The petitioner respectfully submit that the G.O.(D)No.15, Home, Prohibition and Excise (XVI) Department dated 18.01.2016 is relied document and vital document relating to the detention order.

It is submitted that the petitioner preferred representation before the respondent No.2 through the respondent No.3 and seek for the copy of the G.O.(D)No.15, Home, Prohibition and Excise (XVI) Department, dated 18.01.2016 forthwith for preferring effective representation and for filing a Writ of Certiorari for quash the above mentioned Government Order. But the same was not considered, and the respondent No.1 failed to supply the above-mentioned relied document to the petitioner. The failure on the part of the respondent No.1 is a clear case of violation of Article 22(5) of the Constitution of India."



learned counsel for the petitioner. The submissions, thus, made by the learned Additional Public Prosecutor are also taken into consideration.

5. The learned counsel for the petitioner after taking us through the entire booklet points out the fact that the copy of G.O.(D).No.15, Home, Prohibition and Excise (XVI) Department dated 18.01.2016 was not included in the booklet supplied to the detenu.

6. So far as the contention of the learned counsel for the petitioner regarding non-furnishing of the Government Order is concerned, admittedly, the power delegated to the Detaining Authority was being periodically extended by fresh Government Orders passed once in three months and a copy of the latest Government Order extending the delegation referred to in the detention order, has not been furnished to the detenu. Non-furnishing of the same amounts to denial of a reasonable opportunity to make an effective challenge to the order of detention. On that score alone, the order of detention is liable to be set aside.

7. In the result, the Habeas Corpus Petition is allowed and this Court sets aside the order of detention, made in M.H.S.Confdl.No.06 of 2016 dated 22.01.2016, by the second respondent, the District Collector and District Magistrate, Office of the District Collector and District Magistrate, Tirunelveli District, Tirunelveli and directs the release of the detenu by name Muruganantham, S/o.Mariappan, aged 25 years forthwith, if his continued custody is not authorised in specific cases or by any other detention order.

Sd/
Assistant Registrar(Records)

/True Copy/

Sub Assistant Registrar.

To

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

+1CC to M/S. R.Alagumani, Advocate, SR.No. 26285

Order made in
H.C.P(MD)No.129 of 2016
Dated:- 17.05.2016