



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.05.2016

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN
and
THE HONOURABLE MR.JUSTICE B.GOKULDAS
H.C.P (MD) No.241 of 2016

Kala : Petitioner
Vs.

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

2.The Deputy Inspector General of Police,
Tirunelveli Range and Commissioner of Police,
Tirunelveli City, (Full Additional Charge),
Tirunelveli.

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

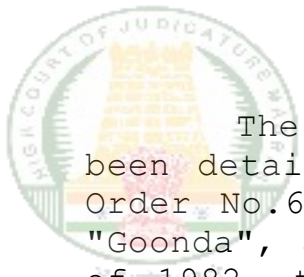
: Respondents

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 passed in No.6/BCDFGISSSV/2016 dated 10.02.2016 on the file of the second respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu namely R.Murugan @ Kambar Murugan, S/o Rathinam Kambar, aged about 48 years, now detained at Central Prison, Palayamkottai before this Court and set him at liberty forthwith.

For Petitioner : Mr.K.Sudalaiyandi

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 wife of the detenu. The detenu has been detained by the second respondent by his order in Detention Order No.6/BCDFGISSSV/2016 dated 10.02.2016, 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.31 of 2016 registered on the file of Pettai Police Station for offences punishable under Sections 341, 294(b), 387, 307 and 506(ii) I.P.C. and the following two adverse cases:

(i) Crime No.456 of 2014 registered on the file of Tirunelveli District, Tenkasi Police Station, for offences punishable under Sections 174 Cr.P.C. @ 302 I.P.C. @ 147, 148, 302 I.P.C. @ 120(b), 147, 148, 302, 201 and 109 I.P.C. r/w 34 I.P.C.; and

(ii) Crime No.572 of 2015 registered on the file of Pettai 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 tranquillity 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 submits that in page No.201 of the booklet, the non-application of mind on the part of the Detaining Authority is apparent which shows that the complainant has appeared before the police station and given a complaint, whereas in page No.203 of the booklet, it shows that on intimation and complaint received from the complainant in the hospital, the F.I.R. has been registered.

4. The submissions made by the learned Additional Public Prosecutor in reply to the above said contentions raised by the learned counsel for the petitioner are also heard.

5. In view of the above, it will show that the Detaining Authority did not apply his mind and he has made an observation which is meaningless and on that ground alone, the order of detention is liable to be set aside.

6. In the result, the Habeas Corpus Petition is allowed and this Court sets aside the Order of Detention dated 10.02.2016, <https://hcc.mca.gov.in/hccservlet/BCDFGISSSV/2016>, passed by the second respondent and directs the release of the detenu, by name R.Murugan @ Kamar Murugan, S/o Rathinam Kamar, aged about 48 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,
Fort St.George, Chennai-600 009.
- 2.The Deputy Inspector General of Police,
Tirunelveli Range and Commissioner of Police,
Tirunelveli City, (Full Additional Charge), Tirunelveli.
- 3.The Superintendent of Prison,
Central Prison,
Palayamkottai, Tirunelveli.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
5. The Joint Secretary to Government,
Public (Law & Order)
Fort St., George, Chennai-9.
6. The Directoir General of Police,
Chennai-600 004.
7. The Inspector General of Prison,
Chennai-600 008.

SDR/SKS-RR/SAR II/02.06.2016/3P/8C

Order Made in
H.C.P(MD)No.241 of 2016
Dated: **18.05.2016**