



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.09.2016

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU
and
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

H.C.P(MD)No.711 of 2016

Sanmugathai

... Petitioner

Vs.

1. The Principal Secretary to Government
Home, Prohibition & Excise Department,
Secretariat,
Chennai-600 009.

2. The District Collector and District Magistrate,
Tirunelveli District, 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 records of the 2nd Respondent vide his order in M.H.S (M) confdl.No.31 of 2016 dated 19.03.2016 and to produce the body of the detainee viz. Suresh aged about 24 years son of Kumar @ Kumaran Palavasam who is presently detained in the Central Prison Palayamkottai before this Honourable Court and set him at liberty.

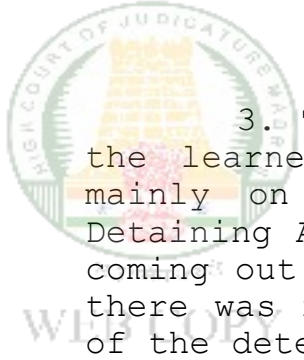
For Petitioner : Mr.Neeranjan S.Kumar
For Respondents : Mr.A.Ramar
Additional Public Prosecutor.

O R D E R

[Order of the Court was made by S.NAGAMUTHU,J]

The petitioner is the mother of the detenu, namely, Suresh, aged 24 years. The detainee has been detained under the Tamil Nadu Act 14 of 1982 as per the order of the 2nd respondent in his proceedings in M.H.S. Confdl. No.31/ 2016, dated 19.03.2016, 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 argument mainly on the ground that the satisfaction arrived at by the Detaining Authority that there was a real possibility of the detenu coming out on bail is totally baseless. He would submit that when there was no bail application at all filed by the detenu, question of the detenu coming out on bail does not arise. Thus, there was no real possibility at all for the detenu to come out on bail, the learned counsel contended.

4. The learned Additional Public Prosecutor would, however, oppose this petition. According to him, the detenu is involved in a case for offence under Section 307 IPC. He would further submit that there was every possibility for the detenu to move application for bail either before the Court of Sessions or before the High Court, in which, there was every possibility for him to come out on bail, because in similar cases, similarly placed persons were granted bail either by the Sessions Court or by the High Court.

5. We have considered the above submissions.

6. If an application for bail is moved, before any competent Court by the detenu, then only, question of coming out on bail would arise. In such a situation, the Detaining Authority may be satisfied that there is a real possibility of the detenu coming out on bail based on the fact that in similar cases, similarly placed persons have been granted bail. But, in this case, there was no such bail application filed by the detenu. There was no attempt also made by any of his relatives to move any application for bail. When that be so, absolutely, there was no real possibility of the detenu coming out on bail. Accordingly, the satisfaction arrived by the detaining authority is totally baseless. In such view of the matter, the detention order is liable to be set aside.

7. In the result, the Habeas Corpus Petition is allowed and the impugned order of Detention in M.H.S.Confdl No.31/2016 dated 19.03.2016 passed by the District Collector, Tirunelveli District, is quashed. The Detenu, Suresh, Son of Kumar @ Kumaran Kailasam, is directed to be released forthwith, unless his presence is required in connection with any other case.

Sd/-
Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar



To

1. The Principal Secretary to Government
Home, Prohibition & Excise Department,
Secretariat,
Chennai-600 009.
 2. The District Collector and District Magistrate,
Tirunelveli District, Tirunelveli.
 3. The Superintendent,
Central Prison,
Palayamkottai,
Tirunelveli District.
 4. The Joint Secretary to Government,
Public (Law & Order),
Secretariat,
Chennai-600 009.
 5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- + 1 CC TO Mr.NIRANJAN S.KUMAR, ADVOCATE IN SR No. 56546

RR

TE/SS-2 : 05/10/2016 : 3P/7C

ORDER MADE IN
H.C.P (MD) No.711 of 2016
27.09.2016