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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.10.2016

CORAM:

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

and

THE HONOURABLE MS. JUSTICE V.M. VELUMANI

H.C.P (MD) No.737 of 2016

Raja @ Nambiraj

.. Petitioner

-Vs-

1.The State of Tamil Nadu,
rep.by The Secretary to Government of Tamil Nadu,
Home, Prohibition and Excise (IX) Department,
Fort.St.Geroge, Chennai-600 009.

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

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

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus calling for the entire records connected with the detention order of the second respondent in Cr.M.P.No.19/GOONDA/2016 dated 31.05.2016 and quash the same and direct the respondents to produce the detenu namely Raja @ Nambiraj, son of Mariappan, aged about 26 years, detained in 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 **M. SATHYANARAYANAN, J.**]

The petitioner is the detenu and he has been branded as 'Goonda' and detained vide order in Cr.M.P.No.19/GOONDA/2016 dated 31.05.2016 under the provisions of the Tamil Nadu Act 14 of 1982. Challenging the legality of the same, this Habeas Corpus Petition is filed.



2. As per the grounds of detention, the detenu came to adverse notice in the case in Perunthurai Police Station in Crime No.445/2015 under Sections 147,148,341,324,302 & 506(ii) IPC and later on, altered to 120(b),341,324,302 IPC & 302 r/w.149 IPC and offences said to have been committed at about 8.00 hours, on 25.05.2015. The detenu and the other accused were surrendered before the learned Judicial Magistrate No.I, Tirunelveli and remanded to the judicial custody. On 03.06.2015, he was taken to police custody and subsequently, after investigation, a charge sheet was filed on 30.08.2015 and it was yet to be taken on file. The grounds of detention would further read that the detenu also came to be involved in the case in B1 Town Police Station in Crime No.182/2016, under Section 399 IPC r/w.25(1A) Arms Act and he was arrested on 23.04.2016 at 9.30 hours and remanded to judicial custody and his remand was extended upto 19.05.2016. The detenu/accused has filed a petition for bail in Cr.M.P.No.1307 of 2016 dated 10.05.2016 and it was dismissed on 19.05.2016 and the matter is under investigation.

3. The Detaining Authority on the basis of the materials placed before him, has arrived at subjective satisfaction that there is an imminent possibility of the detenu coming out on bail in the ground case and accordingly, clamped the order of detention and passed the Order of detention.

4. The learned Counsel for the petitioner has submitted two fold submissions. The first limb of the argument of the learned Counsel for the petitioner is that in order to arrive at subjective satisfaction for an imminent possibility of coming out on bail and the detenu would indulge in similar kind of offences, the Detaining Authority has placed reliance upon the order dated 05.05.2016 passed in the bail petition filed by one Seenivasan in Cr.M.P.No.1269 of 2016, in which, bail was granted to him. However, the detenu, after the dismissal of his bail application in the ground case, he did not file nor attempt to file any further bail application. The second limp of the argument is that the detenu submitted a representation dated 06.06.2016 to the respondents 1 to 5 taking a specific stand that he is educated upto primary level and therefore, he was put to lot of prejudice on account of the fact that some of the pages in the Detention Order is available in English and the vernacular translation has not been supplied to him and thereby, he is prevented from making an effective representation from revoking the order of the Detention Order and prays for appropriate orders.

5. Learned Additional Public Prosecutor would submit that the Detaining Authority with due and proper application of mind, has passed the Order of detention and prays for dismissal of the Habeas Corpus Petition.



6. This Court heard the rival submissions of the parties and perused the materials placed before this Court.

7. Admittedly, the detenu in his representation has specifically made a plea about his educational level and also expressed his difficulty in understanding the language. As rightly pointed out by the learned Counsel for the petitioner that the translated version has not been given to the detenu and thereby, he is prevented from making an effective representation to put forth his case. On the sole ground, the Order impugned in this Habeas Corpus Petition requires interference.

8. In the result, the Habeas Corpus Petition is allowed and this Court sets aside the Order of Detention made in Cr.M.P.No.19/GOONDA/2016 dated 31.05.2016, passed by the second respondent, the District Magistrate and District Collector, Ramanathapuram and directs the release of the detenu, by name Raja @ Nambiraj, son of Mariappan, aged about 26 years, detained in Madurai Central Prison and set him at liberty forthwith, if his continued custody is not authorised in specific cases or by any other detention order.

Sd/-

Assistant Registrar(Crl.Side)

/True Copy/

Sub Assistant Registrar

To

- 1.The Secretary to Government of Tamil Nadu,
The State of Tamil Nadu,
Home, Prohibition and Excise (IX) Department,
Fort.St.Geroge, Chennai-600 009.
 - 2.The District Magistrate and
District Collector,
Office of the District Magistrate
and District Collector,
Ramanathapuram.
 - 3.The Superintendent of Prison,
Madurai Central Prison,
Madurai District.
 - 4.The Joint Secretary to Government,
Public (Law and Order),
Fort.St.Geroge,
Chennai-600 009.
 - 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- +1 cc to Mr.R.Alagumani, Advocate in SR No.58232

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