



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **16.05.2017**

CORAM:

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

and

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

H.C.P (MD) No.26 of 2017

Annakili

.. Petitioner /
mother of Detenue

Vs.

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Secretariat, Chennai-9.

2. The District Collector and District Magistrate,
Tiruchirapalli District, Tiruchirapalli.

3. The Superintendent of Prison,
Central Prison, Tiruchirapalli.

.. 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 of detention order passed by the the 2nd respondent in Cr.M.P.No.18 of 2016, dated 24.12.2016 in detaining the detenue under Section 2(f) of the Tamilnadu Act 14 of 1982 as a GOONDA and quash the same and direct the respondents to produce the detenu, namely, Nagaraj, S/o. Ekambaram, Male, aged 26 years, who is detained in Central Prison, Tiruchirapalli, before this Court and set him at liberty forthwith.

For Petitioner : Mr.K.M.Karunakaran

For Respondents : Mr.C.Ramesh

Additional Public Prosecutor.

O R D E R

[Order of the Court was made by **M.V.MURALIDARAN, J**]

The petitioner is the mother of the detenu. The detenu has been detained by the second respondent, by his proceedings in Cr.M.P.No.18 of 2016, dated 24.12.2016, branding him as a "**Goonda**" under Section 2(f) of the Tamil Nadu Act 14 of 1982. Challenging the same, the petitioner is before this Court with this Habeas Corpus Petition.

2. Though several grounds have been raised in this petition, the learned counsel for the petitioner would submit that the subject is not satisfied arrived at by the Detaining Authority in paragraph 5 of the detention order that there was real



possibility of the detenu coming out on bail and it was based on no material and thus, the so called satisfaction arrived at by the Detaining Authority is arbitrary. In order to substantiate the said contention, the learned counsel would point out that as against the detenu, the ground case has filed in Crime No.344 of 2016 on the file of the Jeeyapuram police station and the detenu has not filed any bail application so far. But, Since in a similar case registered in K.K.Nagar police station in Crime No.105 of 2016, under Sections 147, 148, 302 and 120(B) IPC, bail was granted to one Nagu alias Nagendran by the Madurai Bench of Madras High Court in Crl.O.P.(MD).No.9016 of 2016 on 10.06.2016, the Detaining Authority has held that there was real possibility of the detenu coming out on bail, in future, if he files bail application in the ground case.

3. 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.

4. This satisfaction arrived at by the Detaining Authority, in our considered view, is not based on any material. When there was no bail application at all moved, there was no possibility for the detenu to come out on bail. The facts of the case in Crime No.105 of 2016 is different from the ground case in Crime No.344 of 2016. Hence, on the ground of non-application of mind, the expression of subjective satisfaction regarding the real possibility of the detenu coming out on bail in the ground case stands vitiated and the same can be termed as *ipse dixit*, not supported by cogent materials. On that ground alone, the detention order is liable to be set aside.

5. In the result, this Habeas Corpus Petition is allowed and the impugned Detention Order, passed by the second respondent, in his proceedings in Cr.M.P.No.18 of 2016, dated 24.12.2016 is quashed. The detenu, namely, Nagaraj, S/o. Ekambaram, Male, aged 26 years, is ordered to be set at liberty forthwith, if he is not required for detention in connection with any other case.

Sd/-

ASSISTANT REGISTRAR(Records)

/TRUE COPY/

SUB ASSISTANT REGISTRAR

To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-9.



2. The District Collector and District Magistrate,
Tiruchirapalli District,
Tiruchirapalli.

3. The Superintendent of Prison,
Central Prison,
Tiruchirapalli.

4. The Joint Secretary to Government,
Public (Law & Order),
Fort St. George, Chennai-9.

5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

PJL

MAS/MR/SAR1:24.05.2017:3P-6C

ORDER MADE IN
H.C.P (MD) No.26 of 2017
16.05.2017