



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.07.2017

CORAM:

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THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
and
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

H.C.P.(MD) No.275 of 2017

Muthulakshmi

... Petitioner

-vs-

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Perambalur District,
Perambalur.
- 3.The Superintendent of Prison,
Central Prison,
Tiruchirappalli.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the records pertaining to the impugned detention order passed by the 2nd Respondent made in his proceedings in Cr.M.P.No.03/2017 dated 17.02.2017 in detaining the detenu 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 Vadivel S/o.Appadurai, Male, aged about 36 years, who is detained in Central Prison, Tiruchirappalli, before this Hon'ble Court and set him at liberty.

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.M.SUNDRESH, J.]

The petitioner is the wife of the detenu, namely, Vadivel, son of Appadurai, Male, aged about 36 years. The detenu has been detained by the second respondent by his order in Cr.M.P.No.03/2017, dated 17.02.2017, holding him to be a "GOONDA", as so called under Section 2(f) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.



2. We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondents. We have also perused the records produced by the Detaining Authority.

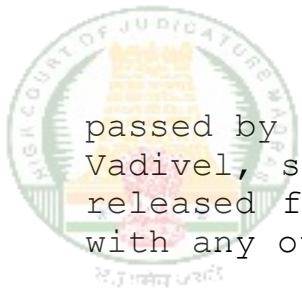
3. Though several grounds have been raised in the Habeas Corpus Petition, the learned counsel appearing for the petitioner, confines his argument only in respect of non-application of mind on the part of the detaining authority in passing the order of detention.

4. The learned counsel appearing for the petitioner would submit that the petitioner has been remanded to Judicial Custody in connection with the 2nd and 3rd adverse case and the ground case. The detenu has not filed any bail application in those cases. However, the detaining authority after quoting that in those cases petitioner has not filed any bail application, by relying on a case registered in Crime No.257/2013, dated 17.06.2013, on the file of the Trichy City Palakkarai Police Station for the offence under Sections 387, 506(ii) I.P.C. has come to the conclusion that there is real possibility of the detenu coming out on bail. According to the learned counsel, the case registered against the petitioner in the ground case is for offence under Sections 294(b), 384 and 506(ii) I.P.C.

5. Per contra, the learned Additional Public Prosecutor while reiterating the averments in the counter affidavit would submit that the order of detention has been passed on cogent and sufficient materials and the same cannot be interfered with at the instance of the petitioner.

6. Considering the submissions made on both sides, we are of the view that there is non-application of mind on the part of the detaining authority in passing the order. Admittedly, in the ground case and 2nd and 3rd adverse case, no bail application has been filed so far. If that be so, the subjective satisfaction arrived at by the detaining authority that there is real possibility of his coming out on bail would be a mere *ipse dixit* and that would vitiate the order of detention. It is a trite law that when no bail application is pending then it is only a logical conclusion that there is no likelihood of the person in custody would be released on bail. Further, the facts involved in the case relied on by the detaining authority as a similar case are totally different. In such view of the matter, the impugned detention order is liable to be quashed.

7. In the result, the Habeas Corpus Petition is allowed and the order of detention in Cr.M.P.No.03/2017, dated 17.02.2017,



passed by the second respondent is set aside. The detenu, namely, Vadivel, son of Appadurai, aged about 36 years, is directed to be released forthwith unless his detention is required in connection with any other case.

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/True Copy/

Sd/-

Assistant Registrar(CSII)

Sub-Assistant Registrar

To:

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 600 009.
 - 2.The District Collector and District Magistrate,
Perambalur District,
Perambalur.
 - 3.The Superintendent of Prison,
Central Prison,
Tiruchirappalli.
(In duplicate for communication to detenu)
 - 4.The Joint Secretary to Government,
Public (Law and Order) Department,
Fort Saint George, Chennai-9
 - 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- +One cc to Mr.K.M.Karunakaran, Advocate, SR.No.63848

sj

RL/8C/3P/KP/SAR1/20/7/2017

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