



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.07.2017

CORAM:

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

H.C.P. (MD) No.477 of 2017

Madathiammal

... Petitioner

-vs-

- 1.The Principal Secretary to Government of Tamilnadu,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 9.
- 2.The District Collector and District Magistrate,
Tirunelveli District,
Tirunelveli.
- 3.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the entire records from the 2nd respondent in M.H.S. Confdl. No.160/2016 dated 05.11.2016 under the Tamilnadu Act 14 of 1982 by setting aside the said order of detention passed by the 2nd respondent and setting the detenu namely Vinothkumar, aged 23 years S/o.Iruthaiyaraj at liberty now detained in the Central Prison, Palayamkottai, Tirunelveli District.

For Petitioner : Mr.S.Duraiaraj

For Respondents : Mr.C.Ramesh

Additional Public Prosecutor

O R D E R

[Order of the Court by M.M.SUNDRESH, J.]

The petitioner, who is the mother of the detenu, namely, Vinothkumar, S/o.Iruthaiyaraj, age 23 years, challenges the impugned order of detention, dated 05.11.2016 in M.H.S. Confdl. No.160/2016, detaining her son as "Goonda", as contemplated under Section 2(f) of the Tamil Nadu Prevention of dangerous activities of Boot leggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum-grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14/1982).



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. The learned counsel for the petitioner would submit that all the cases have been registered by the very same police station, though complainants were different. Thus, they have foisted the cases against the petitioner. He would further submit that the Detaining Authority has not satisfied itself as to the real possibility of the detenu coming out on bail.

4. 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.

5. On a perusal of the impugned order of detention, we find that the Detaining Authority has stated that there was a real possibility of the detenu coming out on bail. Admittedly, at the time of passing the Detention Order, no bail application was pending in the three adverse cases and the ground case. Though the detaining authority has made reliance on similar cases in which accused were granted bail, the facts involved in those cases are different. Hence, there is no material to substantiate that there is real possibility of the detenu coming out on bail and the said order was passed mechanically without application of mind. Therefore, on this ground, the detention order is liable to be set aside.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in M.H.S.Confdl. No.160/2016, dated 05.11.2016, passed by the second respondent is set aside. The detenu, namely, Vinothkumar, son of Irudayaraj, aged about 23 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar(AE)

/True Copy/

Sub Assistant Registrar

To:

1.The Principal Secretary to Government of Tamilnadu,
Home, Prohibition and Excise Department,

<https://hcservices.tn.gov.in/hcservices/>

Chennai - 9.



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

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

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

+1cc to Mr.S.Durairaj Advocate in SR. NO.63582
SJ
JS/MR.KKR/SAR.1/19.7.2017/3P-6C

H.C.P. (MD) No.477 of 2017
05.07.2017