



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.08.2017

CORAM:

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

H.C.P.(MD) No.707 of 2017

Annapurani

... Petitioner

-vs-

1.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort.St.George, Chennai - 600 009.

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

3.The Superintendent,
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 second respondent made in his proceedings in P.D.O.No.08/2017, dated 13.2.2017 in detaining the detenu under Section 2(f) of the Tamil Nadu Act 14 of 1982 as a Goonda and quash the same and to direct the respondents to produce the detenu namely Karuppiah @ Manjanviduthi Karuppiah, son of Krishna Konar, Male, aged about 44 years, who is detained in Central Prison, Tiruchirappalli before this Court and set him at liberty.

For Petitioner : Mr.K.M.Karunakaran

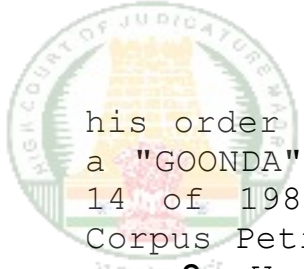
For Respondents : Mr.C.Ramesh

Additional Public Prosecutor

O R D E R

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

The petitioner is the wife of the detenu, namely, Karuppiah @ Manjanviduthi Karuppiah, son of Krishna Konar, aged about 44 years. The detenu has been detained by the second respondent by



his order in P.D.O.No.08/2017, dated 13.2.2017 holding him to be a "GOONDA", as contemplated 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. The learned counsel for the petitioner would submit that on the date of arrest there is no remand order. The remand expired on 12.02.2017 and the detention order was passed on 13.02.2017. He further submitted that in the grounds of detention, it has been stated that the relatives of the detenu are taking steps to file the bail application is bereft of material particulars. The name and the relationship of the person, who is taking steps to file the bail application, has not been indicated.

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. The particulars such as the names and the relationship of the persons, who are attempting to take the Petitioner on bail are not indicated. Thus there appears to be a non-application of mind. 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 P.D.O.No.08/2017, dated 13.2.2017, passed by the second respondent is set aside. The detenu, namely, Karuppiyah @ Manjanviduthi Karuppiyah, son of Krishna Konar, aged about 44 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Assistant Registrar(P&A)

/True Copy/

Sub Assistant Registrar



To:

1.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort.St.George, Chennai - 600 009.

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

3.The Superintendent,
Central Prison,
Tiruchirappalli.

4.The Joint Secretary to Government,
Public (Law & Order)Department,
Fort St.George, Chennai - 600 009.

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

+1cc to M/S.K.M.KARUNAKARAN, Advocate SR.No.72688

vsn

MAS/SKN-RSK/SAR2:29.08.2017:3P-7C

H.C.P. (MD) No.707 of 2017
16.08.2017