



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.06.2019

CORAM

THE HON'BLE MR. JUSTICE M.M.SUNDRESH  
AND  
THE HON'BLE MR. JUSTICE M. NIRMAL KUMAR

H.C.P. No. 139 of 2019

Mrs.Kanaga

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

...Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus directing the respondents to produce the petitioner's son viz., Saravanan @ Sumaithangi Saravanan, aged 29 years before this Court, now confined in Central Prison, Vellore and set him at liberty and to call for the records pertaining to the order of detention passed in C3/D.O.No.108/2018 dated 11.12.2018 by the second respondent and set aside the same.

For petitioner : Mr.S. Sai Raman

For Respondents: Mr.C.Iyyapparaj  
Addl.Public Prosecutor

ORDER

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

The petitioner, who is the mother of the detenu, aged about 29 years has come up with this habeas corpus petition, challenging the detention order passed against her son viz., Saravanan @ Sumaithangi Saravanan by the second respondent, vide C3/D.O.No.108/2018 dated 11.12.2018 branding him as a "Goonda" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum



Grabbers and Video Pirates Act, 1982 [Tamil Nadu Act 14 of 1982].

2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the State and we have also perused the records carefully.

3. Though, several grounds were raised in the petition, the learned counsel appearing for the petitioner would mainly focus on the ground only in respect of non-application of mind on the part of the detaining authority in passing the order of detention.

4. The sponsoring authority has satisfied that the detenu is habitually committing crimes and also acted in a manner prejudicial to the maintenance of public order and as such he is a Goonda, as contemplated under Section 2(f) of the Tamil Nadu Act 14 of 1982 and hence, sponsored the detenu before the Detaining Authority for passing an order of detention against him. The Detaining Authority, on consideration of the materials placed before him, passed the order of detention against the detenu. Aggrieved of the same, the present Habeas Corpus Petition is filed.

5. The learned counsel for the petitioner submitted that insofar as the adverse case No.1 is concerned, the offence registered against the detenu is one under sections 294(b), 324 and 506(ii) IPC and in respect of second adverse case, the offence registered are under Sections 294(b), 392, 397, 341 IPC r/w Sec.3 of Tamil Nadu Property (Prevention of Damage and Loss) Act 1992 and insofar as the ground case is concerned, the offence registered against the detenu is under Sec.302 IPC. Hence, the learned counsel for the petitioner submitted that since the dispute arose between the individuals, it would not in any way be prejudicial to the maintenance of public order, and hence the order of detention is liable to be set aside.

6. In the present case, as rightly pointed out by the learned counsel for the petitioner, since the dispute arose between the individuals and there is no disturbance to the public peace, the order under challenge is liable to be set aside and it is accordingly set aside. The habeas corpus petition is allowed and the detenu is directed to be set at liberty forthwith, unless, his presence is required in connection with any other case.

sr

Sd/-

Assistant Registrar

//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,  
Vellore District  
Vellore.

3. The Superintendent of Prison,  
Central Prison,  
Vellore

4. The Public Prosecutor,  
High Court, Madras.

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

+1cc to Mr. S. Sairaman, Advocate, SR.No.45934

H.C.P. No. 139 of 2019

Kak(02/08/2019)