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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.07.2019

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice M. NIRMAL KUMAR

H.C.P. No.791 of 2019

K.Malar

... Petitioner

-vs-

1.State of Tamil Nadu,
Rep. By its Secretary,
Home, Prohibition and Excise (XVI) Department,
Fort St.George, Chennai - 9

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

... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus to call for the records of the detention order in C.M.P.No.8/GOONDA/2019/M1 dated 31.03.2019 on the file of the second respondent and quash the same and produce the body of the petitioner's son Boopathy, S/o.Kuppan aged about 24 years confined at Central Prison, Salem and set him at liberty.

For Petitioner : M/s.Karan and Uday

For Respondents : Mr.C.Iyyappa Raj
Addl.Public Prosecutor

ORDER

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

The petitioner, who is the mother of the detenu viz., Boopathy, S/o.Kuppan aged about 24, challenges the order of detention dated 31.03.2019 passed by the second respondent under Section 2(f) of the Tamil Nadu Act 14 of 1982 branding the detenu as a Goonda.

2.Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.



3. The sponsoring authority has satisfied that the detenu has 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.

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

5. The learned counsel for the petitioner submitted that insofar as the ground case is concerned, the offence registered against the detenu is Man Missing @ 120(b), 147, 148, 450, 302 and 201 IPC. Learned counsel further submitted that the occurrence took place inside the house and 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. On perusal of the materials available on record and after going through the grounds of detention, we find that the ground case relates to individual act and there may be violation of only law and order and not public order. Any disorderly behaviour of a person in the public or commission of a criminal offence is bound, to some extent, affect the peace prevailing in the locality and it may also affect law and order, but the same need not affect maintenance of public order. Hence, the detention order is liable to be set aside.

7. In the result, the Habeas Corpus Petition is allowed and the order of detention in C.M.P.No.8/GOONDA/2019/M1 dated 31.03.2019, passed by the second respondent is set aside. The detenu, namely, Boopathy, son of Kuppan, aged 24 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar



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- 1.The Secretary to Government,
Home, Prohibition and Excise (XVI) Department,
Fort St.George, Chennai - 9
- 2.The District Magistrate and District
Collector, Namakkal District.
- 3.The Superintendent,
Central Prison, Salem.
4. The Joint Secretary to Government,
Public (Law & Order), Fort St.George, Chennai-9.
- 5.The Public Prosecutor,
High Court, Madras.

H.C.P. No. 791 of 2019

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nr 20/08/2019