

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.08.2019

Coram

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

H.C.P. No.1072 of 2019

Sayeed Umar .... Petitioner/Detenu

-vs-

1.The Secretary to Government,  
Government of Tamil Nadu,  
Home, Prohibition and Excise Department,  
Secretariat, Chennai - 600 009.

2.The District Collector and District Magistrate  
Thiruvannamalai District  
Thiruvannamalai. .... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus to call for the records of detention order made in D.O.No.24/2019 - C2 dated 02.04.2019 passed by the District Collector and District Magistrate, Tiruvannamalai District, Tiruvannamalai, the second respondent herein against the petitioner/detenu Thiru Sayeed Umar, Son of Hameeth Basha, aged about 42 years, who is now confined at Central Prison, Vellore and set aside the same and produce him before this Court and set him at liberty.

For Petitioner : Ms.S.Sumathi

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

## ORDER

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

The petitioner, Sayeed Umar, Son of Hameeth Basha, aged about 42 years, is the detenu. The detenu has been detained by the second respondent by his order in D.O.No.24/2019 - C2 dated 02.04.2019, holding 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 appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents. We have perused the materials available on record.

3.The main argument of the learned counsel appearing for the petitioner is that the case relied on by the detaining authority is not similar in nature and the offences in the adverse cases and ground case are totally different. Therefore, the likelihood of the detenu coming out on bail is not there and the subjective satisfaction arrived by the detaining authority is not proper.

4.From a perusal of the grounds of detention, it is seen that the detenu has involved in four adverse cases which were registered for the offence under Sections 454 and 380 IPC and the ground case has been registered for the offence under Sections 341, 294(b), 323, 506(ii), 392 r/w 307 IPC. The detaining authority has taken into consideration a similar case registered in Arni Taluk Police Station Cr.No.617 of 2017 under Sections 392 and 397 IPC, wherein bail was granted by the District and Sessions Court, Tiruvannamalai in CrI.M.P.No.3905 of 2017 dated 02.11.2017 and therefore, there is a real possibility of the detenu coming out on bail in the adverse cases and ground case and indulge in such activities prejudicial to the maintenance of public order. The offence in the similar case relied on by the detaining authority is robbery and in the said case, bail was granted on the ground that the period of incarceration is more than 45 days whereas the offence in the adverse cases and ground case relate to theft. Therefore, there is non-application of mind on the part of the detaining authority in not considering the similar case for arriving at subjective satisfaction. Hence the impugned order of detention is liable to be set aside.

5. In the result, the Habeas Corpus Petition is allowed and the order of detention in D.O.No.24/2019 - C2 dated 02.04.2019 passed by the second respondent is set aside. The detenu,

namely, Sayeed Umar, Son of Hameeth Basha, aged about 42 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-  
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

- 1.The Secretary,  
Home, Prohibition and Excise Department,  
Secretariat, Chennai - 600 009.
- 2.The District Collector and District Magistrate  
Thiruvanamalai District  
Thiruvanamalai.
- 3.The Superintendent,  
Central Prison, Vellore.
- 4.The Public Prosecutor  
High Court, Madras.
5.  
5.The Joint Secretary to Government,  
Public(Law & Order),  
Fort Saint George, Chennai - 9.

सत्यमेव जयते H.C.P. No.1072 of 2019

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