

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.08.2019

Coram

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

H.C.P.No.1255 of 2019

Angusamy Servai

..Petitioner/Father of the Detenue

Vs.

1.State of Tamil Nadu rep. by its
Principal Secretary,
Department of Home, Prohibition and
Excise, Secretariat,
Chennai - 9.

2.The District Collector and District
Magistrate,
O/o. The District Collector and
District Magistrate,
Villupuram District, Villupuram.

3.The Inspector of Police,
Mailam Police Station,
Villupuram District.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for a writ of habeas corpus, to call for the records in R.C.No.C2/8030/2019 dated 30.03.2019 on the file of the second respondent and quash the detention order as illegal and direct the respondents to produce the detenu Rakkappan alias Ravikumar, son of Angusamy Servai, aged about 41 years, detenu now confined at Central Prison, Cuddalore and set him at liberty.

For Petitioner .. Mr.G.Pavendhan
For Respondents .. Mr.C.Iyyappa Raj,
Addl. Public Prosecutor

ORDER

(Order of the Court was made by M.M.SUNDRESH, J.)

The petitioner is the father of the detenu - Rakkappan alias Ravikumar, son of Angusamy Servai, aged about 41 years. The detenu has been detained by the second respondent by his order in R.C.No.C2/8030/2019 dated 30.03.2019, 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 appearing 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. Learned counsel for the petitioner submits that though the averments reflect that the detenu has involved in adverse cases, the same has not been mentioned in the grounds of detention. He would further submit that the details of the adverse cases are not reflected in the booklet as well as grounds of detention and hence the subjective satisfaction expressed is vitiated.

4. The detaining authority, after referring to the remand of the detenu in the ground case, has chosen to observe that the detenu has filed bail petition in the said case and the same was dismissed and his relatives are taking steps to take him out on bail in the said case. But the same is not supported by any material. The details of the adverse cases are not found in the booklet supplied to the detenu. In such circumstances, the observation of the detaining authority that the relatives of the detenu are taking steps to take him out on bail is not supported by material. There is nothing to show that such material was placed before the detaining authority at the time of clamping the order of detention. Hence the subjective satisfaction expressed by the detaining authority in this regard in para 5 of the grounds of detention is vitiated. On this ground alone, the order of detention is vitiated and liable to be set aside.

5. In the result, the Habeas Corpus Petition is allowed and the order of detention in C2/8030/2019 dated 30.03.2019 passed by the second respondent is set aside. The detenu, namely, Rakkappan alias Ravikumar, son of Angusamy Servai, aged about 41 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1.The Principal Secretary,
Department of Home, Prohibition and
Excise, Secretariat,
Chennai - 9.
- 2.The District Collector and District
Magistrate,
O/o. The District Collector and
District Magistrate,
Villupuram District, Villupuram.
- 3.The Inspector of Police,
Mailam Police Station,
Villupuram District.
- 4.The Superintendent,
Central Prison, Cuddalore.
- 5.The Public Prosecutor,
High Court, Madras.
- 6.The Joint Secretary to Government,
Public (Law & Order) Department,
Fort St.George, Chennai.

+1 cc to M/s.G.Pavendhan, Advocate Sr.No. 66020

AKM/18.09.19/3P-8C /

H.C.P.No.1255 of 2019

सत्यमेव जयते

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