

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.10.2019

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice RMT. TEEKAA RAMAN

H.C.P. No. 1673 of 2019

Anjamma ... Petitioner/Mother of Detenue

-vs-

- 1.The State of Tamil Nadu
Rep. by its Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai - 600 009.
- 2.The District Collector and
District Magistrate of Cuddalore District,
Cuddalore. Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus calling for the entire records relating to petitioner's son detention under Tamil Nadu Act 14 of 1982 vide detention order, dated 23.07.2019 on the file of the second respondent herein made in proceedings C3/D.O./56/2019 and quash the same as illegal and consequently direct the respondents herein to produce the said petitioner's son namely Soundrapandian, Son of Radhakrishnan, aged 25 years before this Court and set the petitioner's son at liberty from detention,now petitioner's son detained at Central Prison, Cuddalore.

For Petitioner : Mr.C.C.Chellappan

For Respondents : Mr.R.Prathap Kumar
Addl. Public Prosecutor

ORDER

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

The petitioner is the mother of the detenu, Soundrapandian, Son of Radhakrishnan, male, aged 25 years. The detenu has been detained by the second respondent by his order in C3/D.O./56/2019 dated 23.07.2019, 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 also perused the records produced by the Detaining Authority.

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 offence in the 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. For appreciating the contentions raised by the learned counsel for the petitioner, the relevant averments in para 5 of the grounds of detention are extracted below:

"5. I am aware that Thiru Soundrapandian, S/o. Radhakrishnan has been remanded to judicial custody 31.07.2019 and lodged at Central Prison, Cuddalore in connection with Neyveli Township PS Cr.No.184/2019 under Section 397 IPC. I am aware that he has not filed any bail petition so far. In a similar case in Cuddalore O.T.P.S. Cr.No.22/2019 Sec 397, 353 IPC bail was granted to the accused (Sathishkumar) by the Court of District Sessions, Cuddalore in Crl.M.P.No.1232/2019 on 22.02.2019. Hence, I infer that there is likelihood of his (Thiru.Soundrapandian,S/o. Radhakrishnan) coming out on bail in Neyveli Township P.S.Cr.No.184/2019 by filing bail application for the above case before the concerned court, since bail is granted by courts in such cases. If he comes out on bail, he will indulge in further activities, which will be prejudicial to the maintenance of public order."

5. From a perusal of the detention order, it is seen that the detaining authority has taken into consideration the similar case registered in Cuddalore O.T.P.S. Cr.No.22/2019 Sec 397, 353 IPC bail was granted to the accused (Sathishkumar) by the Court of District Sessions, Cuddalore in CrI.M.P.No.1232/2019 on 22.02.2019 and therefore, there is a real possibility of the detenu coming out on bail in the ground case in Crime No.184/2019 and indulge in such activities prejudicial to the maintenance of public order. The similar case relied on by the authority was registered for the offences u/s 397, 353 IPC whereas the offences involved in the ground case are u/s 397 IPC. 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.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in C3/D.O./56/2019 dated 23.07.2019, passed by the second respondent is set aside. The detenu, namely, Soundrapandian, Son of Radhakrishnan, male, aged 25 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

mmi/ssm

To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai - 600 009.
- 2.The District Collector and
District Magistrate of Cuddalore District,
Cuddalore.
- 3.The Superintendent,
Central Prison, Cuddalore.

4.The Joint Secretary to Government,
Public(Law & Order),
Fort Saint George, Chennai - 9.

5.The Public Prosecutor,
High Court, Madras.

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