



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

and

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

H.C.P(MD)No.205 of 2019

Viji

... Petitioner

Vs.

1.The State represented by
the Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 600 009.

2.The Commissioner of Police.
Tiruchirappalli City,
Tiruchirappalli.

3.The Superintendent,
Central Prison,
Trichy.

4.The Inspector of Police,
Palakkarai Police Station,
Trichy.

... Respondents

Prayer: Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Habeas Corpus, to call for the records in C.No.49/Detention/C.P.O/T.C./2018 dated 10.12.2018 and direct the respondents herein to produce the detenu Gowrish @ Navaneetha Krishnan, son of Govindaraj, aged 20 years, who has been termed as "Goonda" and now confined in Central Prison, Trichy and set aside the same and set the detenu at liberty.

For Petitioner : Mr.T.Senthilkumar

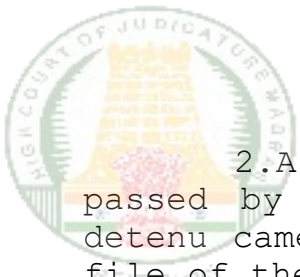
For Respondents : Mr.K.Dinesh Babu

Additional Public Prosecutor

O R D E R

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

The mother of the detenu is the petitioner and challenging the impugned order of detention dated 10.12.2018 passed by the second respondent, in and by which, the detenu has been branded as a Goonda under the provisions of Section 3[1] of the Tamil Nadu Prevention of Dangerous Activities of Boot leggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14/1982), she has filed the present habeas corpus petition.



2.A perusal of the Grounds of Detention dated 10.12.2018, passed by the second respondent herein, would disclose that the detenu came to the adverse notice in Crime No.341 of 2018, on the file of the Tiruchi City Ponmalai Police Station, for the commission of offence under Sections 387 and 506(ii) IPC. It is further stated in the grounds of detention that the *de facto* complainant, namely, one Chelladurai, a resident of Aasari Street, Mudaliarchathiram, Palakkarai, Tiruchirappalli, has lodged a complaint and based on the complaint, Palakkarai Police Station (Law and Order), Tiruchirappalli City has registered a case in Crime No.634 of 2018 for the commission of offence under Sections 147, 148, 341, 294(b), 307 and 302 IPC. A perusal of the FIR would disclose that the brother of the *de facto* complainant committed several criminal offences and very many cases are pending against him in various Police Stations and his whereabouts were not known, but, on 09.10.2018, on an information as to his availability at Middle Street, Mudaliarchatram, they found the detenu and his associates armed with Aruval, repeatedly attacked Pandi, associate of Chandru and also attacked his brother and as a consequence, one person died. The detenu was arrested on 12.10.2018 and later on, he was produced before the Court of Judicial Magistrate No.V, Tiruchirappalli on the same day and was ordered to be remanded to judicial custody and the remand was extended periodically till 11.12.2018 and the Sections originally registered were altered into Sections 147, 148, 341, 294(b), 307 and 302 IPC r/w 120B IPC and the case is under investigation. The Detaining Authority, on being satisfied that the activities of the detenu were prejudicial to the maintenance of the public peace and order and as such, branded him as a Goonda and detained him under the provisions of the Tamil Nadu Act 14 of 1982, by clamping the impugned order of detention and making a challenge to the same, the present Habeas Corpus Petition is filed.

3.The learned counsel for the petitioner has drawn the attention of this Court to paragraph No.5 of the grounds of detention and would submit that in connection with the ground case, bail application filed by the detenu in Cr.M.P.No.5142 of 2018 was dismissed by the Principal District and Sessions Judge, Tiruchirappalli, on the ground that one of the victims is yet to be discharged from hospital and the material part of investigation is yet to be completed. It is further pointed out that in order to derive the subjective satisfaction as to the real and imminent possibility of the detenu coming out on bail and indulge in activities, which are prejudicial to the maintenance of public order and peace, the Detaining Authority, placed reliance on the similar case, granting bail in Cr.M.P.No. 770 of 2013, dated 29.05.2015 passed by the Vocational Session Judge, Tiruchirappalli and made submissions that in the said case, the Sessions Court recorded the fact that the investigation has been almost over, but in the case on hand, the order dismissing the bail application of the detenu would also disclose that the investigation is yet to be completed and the co-detenus are continued to be incarceration and therefore, the



subjective satisfaction derived in that regard is wholly vitiated and hence, prays for quashment of the impugned order of detention.

4. Per contra, Mr. K. Dinesh Babu, learned Additional Public Prosecutor appearing for the State by drawing the attention of this Court to the averments made in the counter affidavit would submit that the Detaining Authority, after due and proper application of mind has rightly clamped the order of detention and prays for dismissal of this petition.

5. This Court has considered the rival submissions and also perused the entire materials placed before it.

6. As rightly pointed out by the learned counsel for the petitioner, the order granting bail in similar case, cannot be stated as a similar case for the reason that in the said case material part of investigation has already been completed, but, in the case on hand, even in respect of the order of dismissal passed in the detenu's application for bail, it has been recorded that the investigation is not yet over and so also, one of the injured victims is yet to be discharged from hospital.

7. In the light of the above said infirmities, this Court is of the considered opinion that the subjective satisfaction derived by the Detaining Authority in that regard is wholly vitiated and the order of detention warrants interference of this Court and the same is accordingly, quashed.

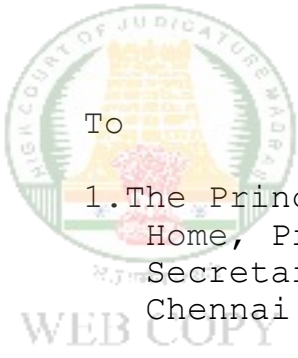
8. In the result, the Habeas Corpus Petition is allowed by setting aside the Order of Detention passed by the second respondent herein, namely, The Commissioner of Police, Tiruchirappalli City, Tiruchirappalli in C.No.49/Detention/C.P.O./T.C./2018 dated 10.12.2018. Consequently, the detenu, namely, Gowrish @ Navaneetha Krishnan aged about 20 years, who is now detained at Central Prison, Trichy is directed to be released forthwith unless his presence [or] custody [or] detention is required in connection with any other case/proceedings.

Sd/-

Assistant Registrar (CS III)

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Sub Assistant Registrar (CS)



To

1.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
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Chennai - 600 009.

2.The Commissioner of Police.
Tiruchirappalli City,
Tiruchirappalli.

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4.The Superintendent,
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5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai

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DSK/GK

KK/SAR/15.07.2019/4P-6C