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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.45 of 2019

Muthumari

... Petitioner

Vs.

1.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
State of Tamil Nadu, Fort St. George,
Chennai - 600 009.

2.The District Collector and the District Magistrate,
Thoothukudi District, Thoothukudi.

3.The Superintendent of Prison,
Palayamkottai Central Prison,
Tirunelveli District.

... Respondents

Prayer: Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Habeas Corpus, calling for the entire records, connected with the detention order of the respondent No.2 in H.S. [M] Confdl. No.02/2019 dated 02.01.2019 to detain the detenu in the Borstal School, Pudukottai and quash the same and direct the respondents to produce the detenu by name Ulagu @ Ulaguraj, son of Sudalaimuthu, aged about 20 years, now detained in Palayamkottai Central Prison before this Hon'ble Court and set him at liberty forthwith.

For Petitioner	: Mr.R.Vinoth Bharathi
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 petitioner is the wife of the detenu and challenging the legality of the impugned order of detention dated 02.01.2019 passed by the 2nd 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), came forward to file the present habeas corpus petition.

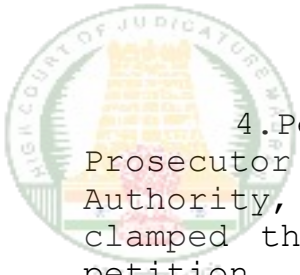


2.A perusal of the Grounds of Detention dated 02.01.2019, passed by the 2nd respondent herein, would disclose among other things that the detenu, viz., Ulagu @ Ulaguraj came to the adverse notice in the following case:-

Sl. No.	Name of the Police Station and Crime No.	Section of Law
1.	Kovilpatti East Police Station Cr.No.484 of 2017	294(b), 302 and 506(ii) IPC @ 294(b), 302, 506(ii), 120(b), 147, 148 IPC @ 294(b), 302, 506(ii), 120(b), 147, 148, 149 and 109 IPC and 4 of TNPHW Act, 2002

It is further stated in the grounds of detention that based on the complaint given by Smt.Veilachi, a resident of Valluvar Nagar, Kovilpatti with regard to the incident that happened on 21.12.2018 at 10.30 hours, Kovilpatti East Police Station registered a case in Crime No.686 of 2018 for the commission of the offences under Sections 341, 294(b), 307 and 506(ii) I.P.C. and Section 4 of TNPHW Act, 2002 and in the complaint it is alleged among other things that when the defacto complainant was walking toward bus stop along with her parents, the detenu along with his associate waylaid her and abused her in filthy language as to the previous enmity and also made an attempt to attack her with Aruvals and she managed to escape. When the defacto complainant and her parents raised alarm and the public came near them to nab the detenu and his associate, they threatened them with dire consequences by brandishing aruvals and taking advantage of the situation, the detenu and his associate fled away. Pursuant to the registration of the F.I.R. in Crime No.686 of 2018 (ground case), the detenu was arrested on 21.12.2018 and later on he was produced before the Court of Judicial Magistrate No.1, Kovilpatti and remanded to judicial custody till 04.01.2019. The Detaining Authority on being satisfied that the activities of the detenu were prejudicial to the maintenance of the public peace and order, 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 challenging the legality of 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 7 of the grounds of detention and would submit that the detenu is in custody in connection with the ground case and he did not file any bail application and in order to derive the subjective satisfaction that there is imminent possibility of the detenu coming out on bail and will indulge in such activities, which are prejudicial to the maintenance of public order, the detaining authority has stated that the detenu has tried to file bail application in the ground case, for which, no material or whatsoever has been produced by the Sponsoring Authority before the Detaining Authority and in the absence of such materials, the subjective satisfaction derived by the Detaining Authority is https://hservices.courtindia.gov.in/hservices/ and hence, he prays for quashment of the impugned order of detention.



4. Per contra, Mr.K.Dinesh Babu, learned Additional Public Prosecutor appearing for the State 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.

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

6. As rightly pointed by the learned counsel for the petitioner, despite an averment that the detenu has tried to file an application for bail, no material in the form of statement of relatives of the detenu has been produced by the Sponsoring Authority before the Detaining Authority to derive the subjective satisfaction and in the absence of such materials, the subjective satisfaction derived by the Detaining Authority that there is real and imminent possibility of the detenu coming out on bail and indulges in such further activities, which are prejudicial to the maintenance of public order is vitiated and as such, the impugned order of detention is liable to be set aside.

7. In the result, the Habeas Corpus Petition is allowed by setting aside the Order of Detention passed by the second respondent herein, namely, The District Collector, Thoothukudi District in Detention Order No.02 of 2019 dated 02.01.2019. Consequently, the detenu, namely, Ulagu @ Ulaguraj, son of Sudalaimuthu, aged about 20 years, who is now detained at Central Prison, Palayamkottai 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 (CO)

/ True Copy /

Sub Assistant Registrar (CS-)

To

1. The Principal Secretary to Government,
Home, Prohibition and Excise Department,
State of Tamil Nadu,
Fort St. George,
Chennai - 600 009.

2. The District Collector and the District Magistrate,
Thoothukudi District, Thoothukudi.

3. The Superintendent of Prison,
<https://hcservices.ecourts.gov.in/hcservices/>
Palayamkottai Central Prison,
Tirunelveli District.



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

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

H.C.P (MD) No.45 of 2019
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ES/17.07.2019/4P/6C