



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.N. PRAKASH

AND

THE HONOURABLE MR. JUSTICE B. PUGALENDHI

H.C.P. (MD) No. 59 of 2019

D.Selvarani

: Petitioner

Vs.

1.The Additional Chief Secretary to Government
Home, Prohibition and Excise Department,
Secretariat, Chennai-9.

2.The District Magistrate and District Collector,
Pudukottai District, Pudukottai.

3.The Superintendent of Prison
Central Prison,
Tiruchirappalli

: Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus, to call for the records pertaining to the impugned detention order passed by the 2nd respondent made in his proceedings in P.D.O.No.35/2018 dated 31.12.2018 in detaining the detenu under Section 2(f) of the Tamil Nadu Act 14 of 1982 as a Goonda and quash the same and direct the respondents to produce the detenu namely, Durai @ Duraiarasan @ Pulugini Durai, S/o.Rengasamy, male aged about 51 years, who is detained in Central Prison, Tiruchirappalli, before this Court and set him at liberty.

For Petitioner

: Mr.Sulthan Basha for

M/s.Ajmal Associates

For Respondents

: Mr.M.Chandrasekaran

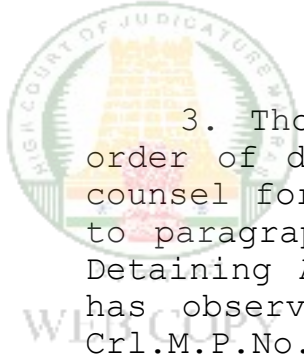
Additional Public Prosecutor

ORDER

B. PUGALENDHI, J

The petitioner is the wife of the detenu viz., Durai @ Duraiarasan @ Pulugini Durai, S/o.Rengasamy, aged about 51 years. The detenu has been detained, as per the order of the second respondent, dated 31.12.2018, under Section 2(f) of the Tamil Nadu Act 14 of 1982, branding him as "GOONDA". Challenging the same, the petitioner is before this Court in this Habeas Corpus Petition.

2. We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents. We have also perused the records carefully.



3. Though a number of grounds have been raised assailing the order of detention, at the time of making submission, the learned counsel for the petitioner, by inviting the attention of this Court to paragraph No.5 of the grounds of detention, submitted that the Detaining Authority, while arriving at a subjective satisfaction, has observed that the bail application filed by the detenu in CrI.M.P.No.3463/2018 on 19.12.2018 before the Principal District Sessions Judge, Pudukottai is pending and after having observed that the bail application is pending, it is not stated that there is every likelihood of he being granted bail and released from custody. Therefore, on that ground, the detention order is liable to be set aside.

4. The submissions made by the learned Additional Public Prosecutor in reply to the above said contention raised by the learned counsel for the petitioner are also heard.

5. In our considered opinion, though the Detaining Authority, while arriving at a subjective satisfaction, has observed the pendency of the bail petition, has not observed that there is every likelihood of the detenu being granted bail in connection with the ground case in Crime No.147/2018. Therefore, on that score alone, the order of detention is liable to be set aside.

6. In the result, this Habeas Corpus Petition is allowed and the impugned Detention Order, passed by the second respondent, in his proceedings in P.D.O. No.35/2018, dated 31.12.2018, is quashed. The detenu, namely Durai @ Duraiarasan @ Pulugini Durai, S/o.Rengasamy, aged about 51 years, is ordered to be set at liberty forthwith, if he is not required for detention in connection with any other case.

Sd/-

Assistant Registrar (W)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Additional Chief Secretary to Government
Home, Prohibition and Excise Department,
Secretariat, Chennai-9.

2.The District Magistrate and District Collector,
Pudukottai District, Pudukottai.

3.The Superintendent of Prison
Central Prison, Tiruchirappalli.



4.The Joint Secretary to Government,
Public, (law and order),
Fort St.George, Chennai - 9.

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

+1cc to M/s.AJMAL ASSOCIATES, Advocate, SR.No. 61834

H.C.P. (MD) No.59 of 2019

Dated: 22.04.2019

RR

KK/SAR/03.06.2019/3P-7C