



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.63 of 2019

Justin Gobinath

... Petitioner

Vs.

- 1.State of Tamil Nadu,
Rep. by the Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Tirunelveli District,
Tirunelveli.
- 3.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli.

... 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 passed in M.H.S. Confdl. No.01/2019 dated 03.01.2019 on the file of the 2nd respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu namely Justin Gobinath, aged about 29 years, S/o.Ravichandran, now detained in Central Prison, Palayamkottai, before this Hon'ble Court and set him at liberty forthwith.

For Petitioner : Mr.N.Pragalathan

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 detenu himself is the petitioner and challenging the legality of the impugned order of detention dated 03.01.2019 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, Goondas, 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 03.01.2019, passed by the 2nd respondent herein, would disclose among other things that the detenu, viz., Justin Gobinath came to the adverse notice in the following three cases:-

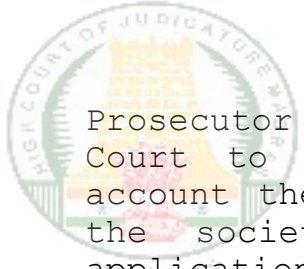
Sl. No.	Name of the Police Station and Crime No.	Section of Law
1.	Tirunelveli Taluk Police Station Cr.No.159 of 2014	294(b), 323 and 506(i) IPC and 4 of Tamil Nadu Prohibition of Harassment of Women Act.
2.	Tirunelveli Taluk Police Station Cr.No.221 of 2015	294(b) and 506(ii) IPC and 4 of Tamil Nadu Prohibition of Harassment of Women Act.
3.	Palayamkottai All Women Police Station Cr.No.10 of 2018	363 IPC and 8 of Protection of Children from Sexual Offence Act, 2012

It is further stated in the grounds of detention that based on the complaint of the defacto complainant viz., Ganesamoorthy, a resident of K.T.C. Nagar, a case in Crime No.402 of 2018 was registered by Tirunelveli Taluk Police Station for the commission of the offences under Sections 341, 294(b), 307 and 506(ii) I.P.C. A perusal of the F.I.R. would disclose among other things that when the defacto complainant was walking in front of the community Hall, he was waylaid by the detenu and questioned as to why he was giving information to the police about him and in that process he tried to attack him with lethal weapon and when public gathered, they were threatened with dire consequences and taking advantage of the situation, he fled away from the scene. Pursuant to the registration of F.I.R. in Crime No.402 of 2018 (ground case) the detenu was arrested in the ground case on 25.11.2018 and was produced before the Judicial Magistrate No.III, Tirunelveli and was ordered to be remanded till 10.01.2019. 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 appearing for the petitioner would submit that in order to derive the subjective satisfaction as to the real and imminent possibility of the detenu coming out on bail and will involve in further activities, which are prejudicial to the maintenance of the public order has placed reliance upon the order granting bail in CRMP No.1000 of 2018 dated 09.08.2018 by the Mahila Court, Tirunelveli and according to him, it cannot be considered as a similar case for the reason that in the said order the concerned accused has no bad antecedent, but in the case on hand the detenu has three adverse cases, and therefore, he prays for quashment of the impugned order of detention.

<https://hcservices.ecourts.gov.in/hcservices>

4. Per contra, Mr.K.Dinesh Babu, learned Additional Public



Prosecutor appearing for the State, by drawing the attention of this Court to the counter affidavit, would submit that taking into account the gravity of the offence, which would have an effect on the society, 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 materials placed before it.

6.As rightly pointed out by the learned counsel for the petitioner, the order granting bail to the petitioner in CRMP No.1000 of 2018 on the file of the Mahila Court, Tirunelveli cannot be considered as a similar case with the case on hand for the reason that a perusal of the order, which is available at page No.225 would disclose that the concerned accused therein has no bad antecedent but the detenu has antecedents of three cases. Therefore, the subjective satisfaction derived by the detaining authority that there is real and imminent possibility of the detenu coming out on bail and will indulge in further activities which are prejudicial to the maintenance of the public order is vitiated. Hence, on the sole ground impugned order of detention warrants interference.

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, Tirunelveli District in M.H.S. Confdl. No.01/2019 dated 03.01.2019. Consequently, the detenu, namely, Justin Gobinath, son of Ravichandran, aged about 29 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)

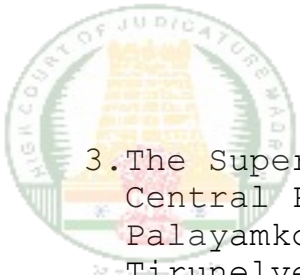
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Sub Assistant Registrar(CS)

To

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

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



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

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.

H.C.P (MD) No.63 of 2019
26.06.2019

SJ

KK/SAR/15.07.2019/4P-6C