



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.81 of 2019

Diana

... Petitioner

Vs.

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

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

3. The Superintendent,  
Madurai Central Prison,  
Madurai.

... 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 Detention order No. 01/2019 dated 11.01.2019 and quash the same and direct the respondents to produce the petitioner husband's body and person by name Rajalingam, S/o. Pon Mayathevar aged about 40 years, detained as a 'Goonda' and lodged in Madurai Central Prison before this Court and set him at liberty forthwith.

For Petitioner  
For Respondents

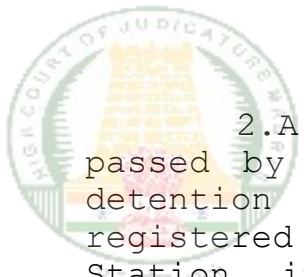
: Mr.R.Venkatesan  
: Mr.K.Dinesh Babu  
Additional Public Prosecutor

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**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 impugned order of detention dated 11.01.2019 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.



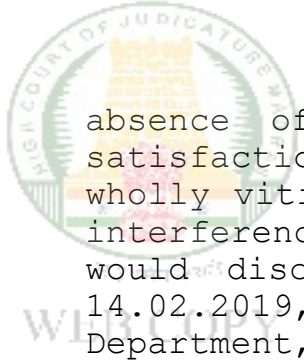
2.A perusal of the Grounds of Detention dated 11.01.2019, passed by the second respondent herein, would disclose that the detention order came to be passed based on a solitary case registered by the Inspector of Police, Ammaiyanaickenur Police Station, in Crime No.330 of 2018 initially for the commission of offence under Section 174 CrPC and later on, altered into Sections 302, 328, and 201 IPC and Section 3(2) (v) SC/ST (POA) Amendment Act, 2015. The *de facto* complainant namely M.Panchu had appeared before the Ammaiyanaickenur Police Station and stated about the selling of illicit liquor by one Jeyachandran and his associates and also death of some persons on consumption of spurious liquor. The investigation revealed the role played by the detenu and he was arrested on 06.12.2018 in connection with the said case and later on he was produced before the Court of Judicial Magistrate, Nilakottai on 07.12.2018 and was ordered to be remanded to judicial custody till 21.12.2018 and the period of remand was periodically extended till 18.01.2019. The Detaining Authority, on being satisfied that the activities of the detenu were prejudicial to the maintenance of the public peace and order 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.4 of the grounds of detention and would submit that admittedly, the detenu has been detained in connection with the solitary ground case and the grounds of detention had not even referred to any antecedents of the detenu and however, the Detaining Authority in paragraph No.4 has stated that he derived the subjective satisfaction that the detenu is committing crimes continuously, for which no material whatsoever has been placed by the Sponsoring Authority before the Detaining Authority and in the absence of such vital materials, the subjective satisfaction derived by the Detaining Authority 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, though the Detaining Authority in paragraph No.4 of the order of detention would state that the detenu is committing crimes continuously, but no material whatsoever has been placed by the Sponsoring Authority, before the Detaining Authority and in the



absence of such important and vital materials, the subjective satisfaction derived by the Detaining Authority in that regard is wholly vitiated and hence, the impugned order of detention warrants interference of this Court and that apart, perusal of the performa would disclose that in respect of the 4<sup>th</sup> representation dated 14.02.2019, the Under Secretary to Home, Prohibition and Excise Department, Secretariat, Chennai - 600 009, dealt with the same on 05.03.2019 and the Hon'ble Minister for Electricity, Prohibition and Excise) dealt with the same on 25.04.2019 and even by excluding the Government Holidays, still there was a considerable delay of 33 days in dealing with the said representation and in the absence of any plausible explanation, the right guaranteed under Article 22(5) of the Constitution of India is also violated. It is to be noted at this juncture, though according to the Sponsoring Authority, on account of commission of heinous offences, number of accused have been arrested, but, it *prima facie* appears that no endeavour has been shown to dispose of the post arrest representation on time and in the case on hand, there was a considerable delay of 33 days in dealing with the said representation. This Court hopes and trusts in future, such kind of infraction shall be avoided by the said department

7. In the considered opinion of this Court, the above said infirmities would vitiate the impugned order of detention 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 District Magistrate and District Collector, Dindigul District, Dindigul in P.D.No.01/2019, dated 11.01.2019. Consequently, the detenu, namely, Rajalingam aged about 40 years, who is now detained at Central Prison, Madurai is directed to be released forthwith unless his presence [or] custody [or] detention is required in connection with any other case/proceedings.

Sd/-

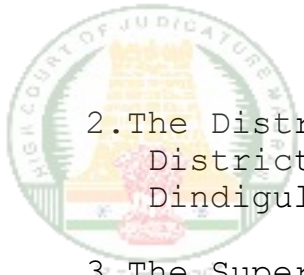
Assistant Registrar (CO)

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Sub Assistant Registrar (CS)

To

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



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

3.The Superintendent,  
Madurai Central Prison,  
Madurai.

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.81 of 2019**  
**26.06.2019**

**dsk/gk**  
**KK/SAR/15.07.2019/4P-6C**