



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 03.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MR.JUSTICE B.PUGALENDHI

H.C.P (MD)No.1732 of 2018

Ranjitha

... Petitioner

Vs.

- 1.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
State of Tamilnadu,
Fort St. George,
Chennai - 600 009.
 - 2.The District Collector and the District Magistrate,
Tirunelveli District,
Tirunelveli - 9.
 - 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 M.H.S.Confdl.No.141/2018 dated 29.11.2018 and quash the same and direct the respondents to produce the detenu by name Sureshkumar, son of Suyambu Nadar, aged about 27 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 29.11.2018 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 29.11.2018, passed by the 2nd respondent herein, the detenu, viz., Sureshkumar came to the adverse notice in the following three cases:-

Sl. No.	Name of the Police Station and Crime No.	Section of Law
1.	Thisayanvilai Police Station Cr.No.203 of 2015	294(b), 387 and 506 (ii) I.P.C.
2.	Thisayanvilai Police Station Cr.No.65 of 2016	448, 294(b) I.P.C. and 4 of Tamil Nadu Prohibition of Harassment of Women Act
3.	Thattarmadam Police Station Cr.No.59 of 2018	302 I.P.C.

It is further stated in the grounds of detention that when the defacto complainant viz., Rajamani, Sub Inspector of Police, Thisayanvilai and the Police party were conducting patrol duty, the detenu came to the spot with an intention to disturb public and traffic and started to abuse and threaten the defacto complainant with dire consequences and made an attempt to cut him by using an Aruval. When the public gathered there to rescue the defacto complainant, they were threatened with dire consequences by brandishing an aruval and taking advantage of the situation they fled away. On the basis of the complaint given by the defacto complainant, Thisayanvilai Police registered a case in Crime No.379/2018 for the commission of the offences u/s.294(b), 353, 307 and 506(ii) IPC (ground case) and took up the case for investigation. The detenu was arrested on 21.11.2018 and he was remanded to Judicial Custody by Judicial Magistrate, Nanguneri and his period of remand would expire on 05.12.2018. The Detaining Authority on a perusal and consideration of the materials has derived the subjective satisfaction 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 challenging the legality of the same, the present Habeas Corpus Petition is filed.

3. The learned counsel for the petitioner by drawing the attention of this Court to paragraph 6 of the grounds of detention would submit that in order to derive the subjective satisfaction that there is imminent possibility of the detenu coming out on bail, which is prejudicial to the maintenance of public order, the detaining authority has placed reliance upon the order granting bail in Cr.M.P.No.743 of 2015 dated 11.02.2015 of the Principal Sessions Court, Tirunelveli District and it cannot be a similar case for the reason that in the said case the petitioner therein did not involve himself in any other case, except the case in which he has filed bail application, whereas the detenu has three adverse cases and therefore, there was total non-application of mind on the part of



the detaining authority as to the factual aspects and therefore, 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.

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 detenu is in custody in connection with the ground case in Crime No.379 of 2018 and his application for bail in Cr.M.P.No.6453 of 2018 is pending before the Sessions Court, Tirunelveli and the detaining authority in order to derive the subjective satisfaction as to the real and imminent possibility of the detenu coming out on bail, which is prejudicial to the maintenance of public order has relied on the order of the Sessions Court, Tirunelveli dated 11.02.2015 in Cr.M.P.No.743 of 2015, filed by one Mariappan alias Mavatta Mariappan, son of Arumuga Thevar, which is available in page 273 of the booklet, would disclose among other things as to the non-involvement of the petitioner therein in any other case. However, in the case on hand, the detenu has involved in three adverse cases. As such, said case cannot be considered as a similar case and the subjective satisfaction arrived by the detaining authority in that regard is vitiated. Therefore, this Court is of the view that on this sole ground, the detention order, impugned herein, 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, Tirunelveli in M.H.S.Confdl.No.141/2018 dated 29.11.2018. Consequently, the detenu, namely, Sureshkumar, son of Suyambu Nadar, aged about 27 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 ()

// True Copy //

Sub Assistant Registrar(CS)



To

1. The Principal Secretary to Government,
Home, Prohibition and Excise Department,
State of Tamilnadu,
Fort St. George,
Chennai - 600 009.
2. The District Collector and the District Magistrate,
Tirunelveli District,
Tirunelveli - 9.
3. The Superintendent of Prison,
Palayamkottai Central Prison,
Tirunelveli District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
5. The Joint Secretary to Government,
Public (Law and Order),
Fort St. George, Chennai.

H.C.P (MD) No.1732 of 2018

03.06.2019

sj

KK/SAR/17.06.2019/4P-6C