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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 10.07.2019
CORAM

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

H.C.P (MD) No.112 of 2019

Selvakumar @ Raja

... Petitioner

Vs.

1.State of Tamil Nadu,
Rep. by the Principal Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009

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

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

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the records connected with the detention order passed in H.S.(M) Confdl No.03/2019 dated 09.01.2019 on the file of the second respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu namely Selvakumar @ Raja, aged about 31 years, S/o.Vetrivel Nadar, now detained at Central Prison, Palayamkottai, before this Court and set him at liberty forthwith.

For Petitioner : Mr.N.Pragalathan

For Respondents : Mr.K.Dinesh Babu
Additional Public Prosecutor

ORDER

(Order of the Court was made by M.SATHYANARAYANAN, J)

The detenu himself is the petitioner and challenging the impugned order of detention dated 09.01.2019, passed by the second respondent, under Section 3(1) of Dangerous Activities of Bootleggers, Drug-offenders, Forest-offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982) and branding him as 'Goonda' in H.S.(M) Confdl.No.03/2019, he has filed the present Habeas Corpus Petition.



2. A perusal of the grounds of detention dated 09.01.2019 would disclose among other things that the detenu came to adverse notice in the following four cases:

(i) **Cr.No.29 of 2017** on the file of Soorangudi Police Station, under Sections 341, 294(b), 506(ii) and 302 I.P.C.

(ii) **Cr.No.01 of 2018** on the file of Soorangudi Police Station, under Sections 294(b), 307, 506(ii) I.P.C., and Section 4 of TNPHW Act 2002.

(iii) **Cr.No.85 of 2018** on the file of Soorangudi Police Station, under Sections 294(b) and 506(i) I.P.C.

(iv) **Cr.No.12 of 2018** on the file of Vilathikulam All Women Police Station, under Sections 3(a) r/w 4 of POCSO Act 2012 and 506 (ii) I.P.C.

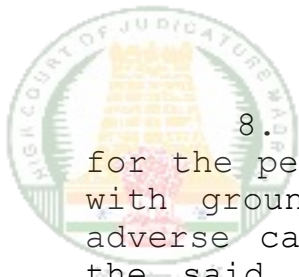
3. It is further stated in the grounds of detention that based on the complaint given by one Periyasamy, a resident of Patchaiyapuram, Vembar, against one Selvakumar @ Raja (detenu), case in Cr.No.12 of 2018 for the commission of offences under Sections 3 (a) r/w 4 of the Protection of Child from Sexual Offences Act, 2012 and the detenu was arrested and produced before the Court of Judicial Magistrate, Vilathikulam, on 21.12.2018 and was remanded to judicial custody upto 04.01.2019 and the period of remand was extended till 22.01.2019.

4. The detaining authority on being satisfied with the materials placed by the sponsoring authority that the activities of the detenu are prejudicial to the maintenance of public order, clamped the order of detention and making a challenge to the same, the present Habeas Corpus Petition has been filed by the petitioner.

5. The learned Counsel appearing for the petitioner would submit that the detenu is in custody in connection with the ground case as well as in four adverse cases, whereas the substantive satisfaction has been derived only in respect of detention in the ground case alone and despite the fact that he was formally arrested for four adverse cases on 29.12.2018, the detaining authority, has not even referred to the said fact and therefore, prays for quashment of the impugned order of detention.

6. Per contra, the learned Additional Public Prosecutor appearing for the State has drawn the attention of this Court to the counter affidavit filed by the second respondent and would submit that the detaining authority, on proper application of mind, has taken into consideration all the materials and the report submitted by the sponsoring authority, has passed the detention order and hence, prays of dismissal of the Habeas Corpus Petition.

7. This Court has considered the rival submissions and perused the materials placed before this Court.



8. As rightly pointed out by the learned Counsel appearing for the petitioner, the detenu is under incarceration in connection with ground case and four adverse cases and in respect of four adverse cases, he was formally arrested on 29.12.2018 and despite the said fact, the detaining authority has failed to take into consideration the said material fact and has taken into consideration the remand in ground case alone and therefore, the subjective satisfaction arrived at by the detaining authority, in the considered opinion of this Court, is wholly vitiated and hence, on the sole ground, the impugned order of detention warrants interference.

9. In the result, this Habeas Corpus Petition is allowed and the order of detention in H.S.(M)Confdl. No.03/2019, dated 09.01.2019 passed by the second respondent, is quashed and the detenu namely Selvakumar @ Raja, S/o Vetrivel Nadar, is directed to be set at liberty forthwith, unless his remand/detention is required, in accordance with law, in connection with any other case/proceedings.

Sd/-
Assistant Registrar

/TRUE COPY/

Sub Assistant Registrar

To

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

H.C.P (MD) No.112 of 2019
10.07.2019

SSL

JM/29.07.2019/3P-6C

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