



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.07.2019

CORAM:

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

H.C.P (MD)No.124 of 2019

Tamilselvan

... Petitioner

Vs.

1.The Additional Chief Secretary to Government,
State of Tamilnadu,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 600 009.

2.The District Collector and District Magistrate,
O/o.The District Collector and District Magistrate,
Sivagangai District,
Sivagangai.

3.The Superintendent of Prison,
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 respondent No.2 in Cr.M.P.No.02/Goonda/2019 dated 14.01.2019 and quash the same and direct the respondents to produce the body or person of the detenu, namely, Tamilselvan, S/o.Veeranan, aged about 24 years, now detained at Central Prison, Madurai, before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani

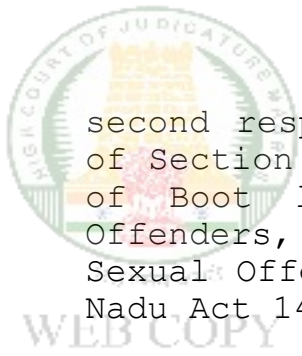
For Respondents : Mr.K.Dinesh Babu
Additional Public Prosecutor

O R D E R

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

The detenu himself is the petitioner herein and challenging the impugned order of detention dated 14.01.2019 passed by the

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



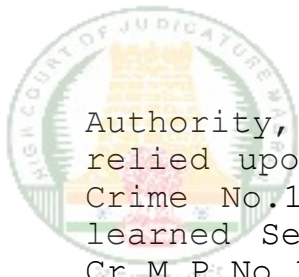
second respondent, branding him as a 'Goonda' under the provisions of Section 3[1] of the Tamil Nadu Prevention of Dangerous Activities of Boot leggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14/1982), he has filed the present habeas corpus petition.

2. A perusal of the Grounds of Detention dated 14.01.2019, passed by the second respondent herein, would show that the detenu, viz., Ganagaraj came to the adverse notice in the following cases:-

Sl. No.	Name of the Police Station and Crime No.	Sections of Law
1.	Nagamalai Pudukottai Police Station Cr.No.550 of 2018	457, 380 IPC
2.	Karuppayurani Police Station Cr.No.181 of 2018	392 IPC
3.	Sivaganga Town Police Station Cr.No. 731 of 2018	392 IPC
4.	Thiruppathur Town Police Station Cr.No. 256 of 2018	392 IPC

It is further stated in the grounds of detention that the detenu was also involved in the commission of offence under Section 392 IPC in Crime No.258 of 2018, on the file of the Thiruppathur Police Station. The detenu was arrested on 13.12.2018 and was produced before the Judicial Magistrate, Thiruppathur on 14.12.2018 and was ordered to be remanded to judicial custody till 28.12.2018 and his remand was periodically extended upto 22.01.2019. 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 public order and peace 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 has drawn the attention of this Court to paragraph No.4 of the grounds of detention and would submit that the detenu is under custody in connection with four adverse cases as well as ground case and he has filed an application for bail in respect of the ground case in Cr.M.P.No.4798 of 2018 on the file of the Judicial Magistrate, Thiruppathur as well as in respect of the fourth adverse case in Cr.M.P.No.4797 of 2018 and both the bail applications are pending on the file of the Judicial Magistrate, Thiruppathur. The Detaining



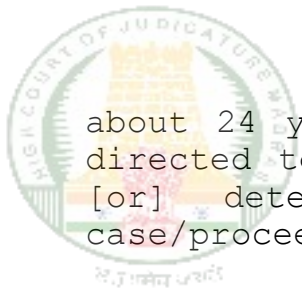
Authority, in order to derive the subjective satisfaction, has relied upon a similar case registered by Sipcot Police Station in Crime No.114 of 2015 as well as the order granting bail by the learned Sessions Judge, Sivagangai vide order dated 09.07.2015 in Cr.M.P.No.1942 of 2015 to the accused therein. It is the primordial submission of the learned Counsel for the petitioner that the subjective satisfaction is derived only with regard to the similar case like the ground case and the Detaining Authority has not taken into consideration of the fact that the bail application is pending in respect of the fourth adverse case also and would further submit that even assuming that the detenu is going to come out on bail in the ground as well as fourth adverse case, still it would not be possible for him to indulge in activities, which are prejudicial to the maintenance of public order and peace, unless or until he gets orders of bail in other adverse cases also and the said fact has been completely overlooked by the Detaining Authority, as such, the subjective satisfaction derived by the Detaining Authority 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 two bail applications are pending regarding the ground case and the fourth adverse case, similar material was placed only in respect of the ground case and even for the sake of arguments that the detenu is going to come out on bail in the ground case as well as fourth adverse case, still it would not be possible for him to indulge in activities which are prejudicial to the maintenance of public order and peace, unless he gets orders of bail in the other adverse cases also. However, the said material fact has been completely overlooked by the Detaining Authority. Therefore, this Court is of the view that the subjective satisfaction derived by the Detaining Authority in that regard is totally vitiated, as such, the impugned order of detention is liable to be set aside and the same is accordingly, quashed.

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 and District Magistrate, Sivagangai District, Sivagangai, in Cr.M.P.No.02/Goonda/2019 dated 14.01.2019. Consequently, the detenu, namely, Tamilselvan, aged



about 24 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.

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Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)

To

- 1.The Additional Chief Secretary to Government,
State of Tamilnadu,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 600 009.
- 2.The District Collector and District Magistrate,
O/o.The District Collector and District Magistrate,
Sivagangai District, Sivagangai.
- 3.The Superintendent of Prison,
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.124 of 2019
31.07.2019

gk/dsk

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