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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.08.2019

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

H.C.P(MD)No.179 of 2019

Ramesh ... Petitioner

Vs.

1.State of Tamil Nadu,
represented by
The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
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 for issuance of a Writ of Habeas Corpus to call for the entire records connected with the detention order passed in H.S.(M) Confdl.No.06/19, dated 31.01.2019 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, Ramesh, aged about 23 years, son of Balamurugan @ Paulraj, 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

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ORDER

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

The petitioner is the detenu and challenging the legality of the impugned order of detention dated 31.01.2019, passed by the second respondent, under Section 3(1) of Tamil Nadu Prevention of Dangerous Activities of Bootleggers, 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 of 1982) and branding him as 'Goonda' in Detention Order No.06/19, came forward to file the present Habeas Corpus Petition.

2.A perusal of the Grounds of Detention dated 31.01.2019, passed by the 2nd respondent herein, would disclose among other things that the detenu, viz., Ramesh came to the adverse notice in the following case:-

Sl. No.	Name of the Police Station and Crime No.	Section of Law
1.	Tiruchendur Police Station Cr.No.217 of 2017	294(b), 307, 324 and 506(ii) I.P.C. @ 294(b), 342, 307, 324, 506(ii) I.P.C. r/w 34 I.P.C.

It is further stated in the grounds of detention that the detenu was involved in a case for the commission of offences under Sections 294 (b), 302, 506(ii), 120(b) I.P.C. in Tiruchendur Police Station Crime No.415 of 2018 (ground case) on the basis of the complaint given by the defacto complainant viz., Ramalakshmi. The detenu has surrendered before the Court of Judicial Magistrate No.1, Kovilpatti on 31.12.2018 and produced before the Court of Judicial Magistrate, Tiruchendur on 08.01.2019 and his police custody was taken. Once again he was produced before the Court of Judicial Magistrate, Srivaikundam on 09.01.2019 and remanded to judicial custody and his period of remand has been extended upto 06.02.2019. 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.

3. The learned counsel appearing for the petitioner has drawn the attention of this Court to paragraph 7 of the grounds of detention and would submit that the detenu is in custody in connection with the ground case and though he did not file any bail application, it is averred by the detaining authority that the detenu has tried to file bail application, for which, no cogent or tenable material has been produced and in the absence of any material the subjective satisfaction derived by the detaining

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authority as to the real and imminent possibility of the detenu coming out on bail and will indulge in further activities, which are prejudicial to the maintenance of public order is vitiated and hence, he 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 appearing for the petitioner, though in paragraph No.7 of the grounds of detention it is averred that the detenu is trying to file bail application, no cogent or sufficient material has been produced. In the absence of any such material, the subjective satisfaction derived by the detaining authority as to the 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 and as such the impugned order of detention 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, Thoothukudi District in H.S.(M) Confdl.No.06/2019 dated 31.01.2019. Consequently, the detenu, namely, Ramesh, son of Balamurugan, aged about 23 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 (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

To

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

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2.The District Collector and District Magistrate,
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Thoothukudi.

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

4.The Joint Secretary to Government,
Public Law and Order,
Fort St. George,
Chennai - 600 009.

5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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