



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **06.09.2019**

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

AND

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

H.C.P. (MD)No.215 of 2019

R.Angammal

: Petitioner

Vs.

1.The State rep. By
Government of Tamil Nadu
rep. by the Secretary to Government
Home, Prohibition and Excise Department
Fort St. George,
Chennai-9.

2.The Commissioner of Police,
Trichy City, Trichy.

3.The Superintendent
The Central Prison,
Tiruchirappalli

: Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus, to call for the records connected with the detention order of the 2nd respondent in C.No.02/Detention/C.P.O./T.C./2019 dated 15.01.2019 and quash the same and direct the respondents to produce the body and person of the petitioner son namely Bala @ Balakrishnan, son of Rengaiyan aged about 23 years now confined at Central Prison, Tiruchirappalli and set him at liberty forthwith.

For Petitioner : Mr.B.Jameelarasu

For Respondents : Mr.K.Dinesh Babu

Additional Public Prosecutor

ORDER

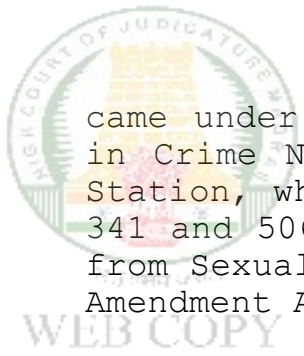
S.VAIDYANATHAN, J.

AND

N.ANAND VENKATESH, J.

Challenge is made to the order of detention passed by the second respondent vide proceedings in C.No.02/Detention/C.P.O./T.C./2019 dated 15.01.2019, whereby, the detenu was ordered to be detained under the provisions of the Tamil Nadu Act 14 of 1982, branding him as a "Sexual Offender".

2. As per the grounds of detention, dated 15.01.2019, the detenu



came under adverse notice in the ground case, which was registered in Crime No.35/2018 on the file of the Srirangam All Women Police Station, who is the sponsoring authority, for offence under Sections 341 and 506(ii) IPC and 5[g], 5[r], r/w 6 of Protection of Children from Sexual Offence Act, 2012 and 3[1], w[1], 3[2][v] of SC/ST (POA) Amendment Act, 2015.

3. Though many grounds have been raised by the learned counsel for the petitioner, one of ground that has been raised by the learned counsel for the petitioner is that the order of detention has been passed, based on a single incident, for which, the police have registered an FIR in Crime No.35/2018 for offences as stated supra.

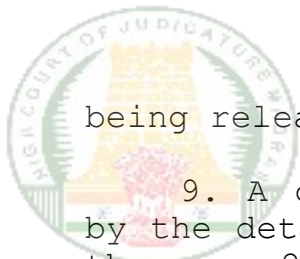
4. The learned counsel for the petitioner further submitted that the detenu had filed a bail petition and the same was pending. The detaining authority had come to a subjective satisfaction regarding the imminent possibility of the detenu coming out on bail, only on the ground that in a similar case, the accused person has been released on bail by the Principal Sessions Judge and Mahila Court, Tiruchirappalli. The learned counsel by pointing out to the bail order, which has been referred in the detention order, submitted that the similar case that is pointed out is not actually a similar case and the facts of that case is completely different from the facts of the present case.

5. The learned counsel for the petitioner submitted that in the similar case, the concerned Court had granted bail to the accused person by taking into consideration the fact that there was a love affair between the accused person and the victim girl. The learned counsel, therefore, submitted that the detention order suffers from non application of mind and the same is liable to be interfered with.

6. The learned counsel also placed reliance upon the decision of the Full Bench in ***Rekha v. State of Tamil Nadu (2011) 5 SCC 244*** to substantiate his contention.

7. Heard the learned Additional Public Prosecutor appearing on behalf of the respondents.

8. A careful reading of the detention order shows that the detaining authority has taken into consideration the case registered against the detenu in Crime No.35/2018 for offence under Sections 341, 506(ii) IPC and 5(g), 5(r) r/w 6 of Protection of Children from Sexual Offence Act, 2012 and 3[1], w[1], 3[2][v] of SC/ST (POA) Amendment Act, 2015. There are totally four accused persons in that case and the petitioner has been arrayed as A-2. The detaining authority has taken into consideration the bail order that has been passed by the Sessions Court, Trichy, which is dated 18.05.2016, in order to arrive at a subjective satisfaction that the detenu is also similarly placed and therefore, there is a likelihood of the detenu



being released on bail.

9. A careful reading of the order, which has been relied upon by the detaining authority, shows that the said order was passed in the year 2016 by the concerned Court on the peculiar facts of that case, wherein, the accused and the victim girl had a love affair and thereafter eloped and got married, which ultimately resulted in the registration of a criminal case. The similar case that has been referred to in the detention order is in no way related to the facts of the present case. This was the only ground that has been stated in the detention order by the detaining authority to come to a subjective satisfaction regarding the imminent possibility of the detenu coming out on bail.

10. In the considered view of this Court, the subjective satisfaction, which has been arrived, is without any strong materials and it clearly reflects non application of mind and hence, the detention order stands vitiated.

11. In the result, this Habeas Corpus Petition is allowed and the impugned Detention Order, passed by the second respondent, in his proceedings in C.No.02/Detention/C.P.O./T.C./2019 dated 15.01.2019 is quashed. The detenu, namely Bala @ Balakrishnan, son of Rengaiyan aged about 23 years, is ordered to be set at liberty forthwith, if he is not required for detention in connection with any other case.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)

RR

To

1.The Secretary to Government
State of Tamil Nadu
Home, Prohibition and Excise Department
Secretariat, Chennai-9.

2.The Commissioner of Police,
Trichy City, Trichy.

3.The Superintendent
The Central Prison,
Tiruchirappalli



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 9.

H.C.P. (MD) No.215 of 2019

Dated: 03.09.2019

KK/SAR/11.10.2019/4P-6C/