



WEB COPY

BEFORE THE MADURAI BENCH OF THE MADRAS HIGH COURT

DATE : 10.07.2019

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE B. PUGALENDHI

H.C.P. (MD) NO. 23 OF 2019

Manikandan

.. Petitioner

- Vs -

1. State of Tamil Nadu

rep. by the Prl. Secretary to the Government
Home, Prohibition & Excise Dept.
Fort St. George, Chennai 600 009.

2. The District Collector & District Magistrate

Office of the District Collector &
District Magistrate, Ariyalur District
Ariyalur.

3. The Superintendent

Central Prison, Tiruchirappalli.

.. Respondents

Petition filed for the issuance of a writ of habeas corpus calling for the entire records connected with the detention passed by the 2nd respondent in Cr. M.P. No.32/2018 dated 26.12.2018 and set aside the same as illegal and direct the respondents to produce the petitioner, viz., Manikandan, S/o Subramaniyan, aged 35 years, now detained at Central Prison, Trichy before this Hon'ble Court and set him at liberty.

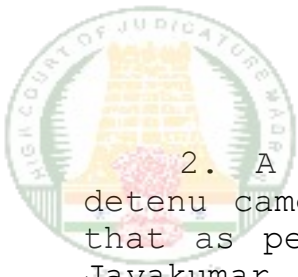
For Petitioner : Mr.K.A.S.Prabhu

For Respondents : Mr.K.Dinesh Babu, APP

ORDER

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

The detenu himself is the petitioner and challenge is made to the impugned order of detention dated 26.12.2018 passed by the 2nd respondent u/s 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 of 1982) branding the detenu as 'Goonda' and preventing him from acting prejudicial to the interest of public health and public order. Aggrieved by the said order, the present petition has been filed.



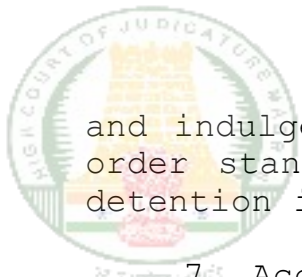
2. A perusal of the ground of detention disclose that the detenu came to adverse notice in four cases. It is further stated that as per the complaint given by the defacto complainant, viz., Jayakumar, S/o Senguttuvan of Andimadam, on 22.11.18, a case in Crime No.350/18 was registered by the sponsoring authority, viz., the Inspector of Police, Andimadam Police Station u/s 392 r/w 397 IPC. The detenu was arrested on 21.11.18 and he voluntarily came forward to give a confession statement based on which some incriminating articles were seized. Later on, the detenu was produced before the Judicial Magistrate No.1, Jayamkondan on 22.11.18 and remanded to judicial custody till 6.12.18 and the period of remand has been periodically extended till 3.1.19. The Detaining Authority, on being satisfied that the activities of the detenu are prejudicial to public order and peace, has clamped the impugned order of detention, challenging which the present habeas corpus petition has been filed.

3. Learned counsel appearing for the petitioner drew the attention of this Court to para-5 of the grounds of detention and submits that the detenu is in custody in connection with the 4th adverse case and ground case and the Detaining Authority has derived subjective satisfaction only with regard to the ground case and has failed to take into consideration the fact that the detenu is also in remand in the 4th adverse case and this shows non-application of mind on the part of the Detaining Authority and this vitiates the order of detention and, hence, prays for quashment of the order of detention.

4. Per contra, learned Addl. Public Prosecutor appearing for the respondents submits that the detaining authority, after due application of mind to the entire materials has arrived at the subjective satisfaction and clamped the order of detention and, therefore, submits that no interference is called for with the impugned order and prays for dismissal of this petition.

5. This Court has carefully considered the rival submissions and perused the materials available on record.

6. As rightly pointed out by the learned counsel for the petitioner, the detenu is in custody in connection with the 4th adverse case as well as in the ground case and in respect of the ground case, application for bail in Cr. M.P. No.2132/2018 before the Principal Sessions Court, Ariyalur, was dismissed on 19.12.18 and in order to arrive at a subjective satisfaction, the Detaining Authority placed reliance on similar orders in Udayarpalayam Police Station Cr. No.62/14, where bail was granted by the Judicial Magistrate Court, Jayankondam in Cr. M.P. No.8840/14 dated 27.8.14. However, the incarceration of the detenu in connection with the 4th adverse case has not at all been taken into consideration and, therefore, the subjective satisfaction arrived at by the Detaining Authority that the detenu would come out on bail in the ground case



and indulge in activities prejudicial to the maintenance of public order stands vitiated. Hence, on this sole ground, the order of detention is liable to be quashed.

7. Accordingly, the habeas corpus petition is allowed and the impugned order of detention passed by the 2nd respondent in Cr. M.P. No.32/2018 dated 26.12.2018 is set aside. The detenu Manikandan, S/o Subramaniyan, is directed to be set at liberty forthwith unless his custody/detention is required in connection with any other case/proceedings.

Sd/-

Assistant Registrar (AD-II)

/ True Copy /

Sub Assistant Registrar(CS-)

GLN

To

1. The Principal Secretary to the Government
State of Tamil Nadu
Home, Prohibition & Excise Dept.
Secretariat, Chennai 600 009.
2. The District Collector & District Magistrate
Office of the District Collector &
District Magistrate, Ariyalur District
Ariyalur.
3. The Joint Secretary to Government,
Public (Law & Order) Department,
Fort.St.George, Chennai -9.
4. The Superintendent
Central Prison, Tiruchirappalli.
5. The Addl. Public Prosecutor
Madurai Bench of Madras High Court
Madurai.

H.C.P. (MD) NO. 23 OF 2019
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