



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.09.2019

CORAM:

THE HONOURABLE MR. JUSTICE S. VAIDYANATHAN

AND

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

H.C.P. (MD) No. 290 of 2019

Chellaiah

: Petitioner

Vs.

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

2. The District Collector and the District Magistrate,
Tirunelveli District,
Tirunelveli.

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

: 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 entire records connected with the detention order of the respondent No.2 in M.H.S.Confdl. No.32/2019 dated 26.03.2019 and quash the same and direct the respondents to produce the detenu by name Maharajan @ Arun, son of Chellaiah, aged about 20 years, now detained in Palayamkottai Central Prison, before this Court and set him at liberty forthwith.

For Petitioner

: Mr.R.Vinoth Bharathi

For Respondents

: Mr.K.Dinesh Babu

Additional Public Prosecutor

ORDER

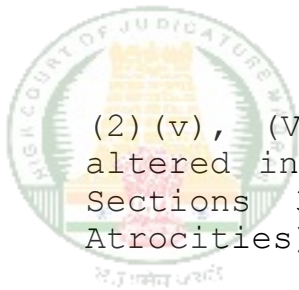
S. VAIDYANATHAN, J.

AND

N. ANAND VENKATESH, J.

Challenge is made to the order of detention passed by the second respondent vide proceedings in Detention Order in MHS Confl. No.32/2019 dated 26.03.2019, whereby the detenu was ordered to be detained under the provisions of the Tamil Nadu Act 14 of 1982, branding him as a "Goonda".

2.As per the grounds of detention, dated 26.03.2019, the detenu came under adverse notice in the ground case, which was registered in Crime No. 73/2019 on the file of the Munneerpallam Police Station, who is the sponsoring authority, for offence under Sections 147, 148, 341, 294(b), 506(ii), 302 Ipc and Sections 3(1)(r), 3(1)(s), 3



(2) (v), (Va) SC/ST (Prevention of Atrocities) Amendment Act, 2015 altered into 147, 148, 120(B), 341, 294(b), 506(ii), 302 Ipc and Sections 3(1)(r), 3(1)(s), 3(2)(v), (Va) SC/ST (Prevention of Atrocities) 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.73/2019 for offences as stated supra.

4. The learned counsel for the petitioner further submitted that 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 this Court, when the detenu has not even filed a bail application.

5. The learned counsel for the petitioner submitted that the detaining authority, without the availability of materials, cannot *ipso facto* satisfy himself regarding the imminent possibility of the detenu coming out on bail, merely on the ground that the accused, who are similarly placed have been granted bail.

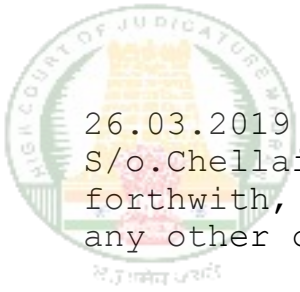
6. The learned counsel for the petitioner relied upon the judgment of the Hon'ble Supreme Court in ***Rekha v. State of Tamil Nadu ((2011) 5 SCC 244)*** to substantiate his submission.

7. The learned counsel for the petitioner submitted that a single incident howsoever heinous is insufficient to pass a detention order, more particularly, on the ground that the accused persons, against whom, similar cases have been filed, were granted bail by the High Court.

8. We have carefully considered the submissions made on either side and the materials available on record.

9. The submissions made by the learned counsel for the petitioner has force. It is clear that in a case involving single incident, the mere fact that there is imminent possibility of the detenu coming out on bail, since the accused person, against whom similar case was filed, was granted bail, is not a sufficient ground to pass a detention order, more particularly, when the detenu has not even filed a bail petition. The subjective satisfaction that has been arrived at by the detaining authority suffers from non application of mind and therefore, the same is liable to be interfered with by this Court.

10. In the result, this Habeas Corpus Petition is allowed and the impugned Detention Order, passed by the second respondent, in his proceedings in Detention Order in MHS Confdl. No.32/2019 dated



26.03.2019 is quashed. The detenu, namely Maharajan @ Arun, S/o.Chellaiah, aged 20 years, is ordered to be set at liberty forthwith, if he is not required for detention in connection with any other case.

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Sd/-

Assistant Registrar (co)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Principal Secretary to Government,
Home, Prohibition and Excise Department,
State of Tamil Nadu, Fort St. George, Chennai-9.
2. The District Collector and the District Magistrate,
Tirunelveli District, Tirunelveli.
3. The Superintendent of Prison
Palayamkottai Central Prison, Tirunelveli.
4. The Joint Secretary to Government,
Public (Law & Order)
Fort.St. George, Chennai-9.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Order made in
H.C.P. (MD) No.290 of 2019
Dated: 24.09.2019

RR

VB(16.10.2019) 3P 6C