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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. 348 of 2019

Nanthini

: Petitioner

Vs.

1. The Government of Tamil Nadu
Rep. by its Secretary to Government,
Department of Home, Prohibition and Excise Department,
Chennai-600 009.

2. The District Collector and District Magistrate,
Thiruvarur District, Thiruvarur.

3. The Superintendent of Central Prison
Tiruchirappalli-20.

: 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 pertaining to the proceedings of the 2nd respondent made in C.O.C.No.02/2019 dated 29.03.2019 and quash the same as illegal and devoid of merits and consequently set the petitioner's husband by name Paulpandi, S/o.Ganapathy, Male aged about 33 years to be at liberty forthwith from third respondent.

For Petitioner

: Mr.S.Palani Velayutham

For Respondents

: Mr.K.Dinesh Babu
Additional Public Prosecutor

ORDER

S. VAIDYANATHAN, J.

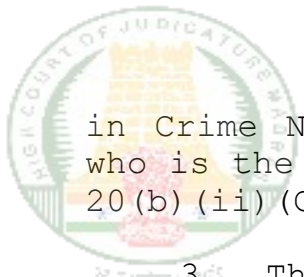
AND

N. ANAND VENKATESH, J.

Challenge is made to the order of detention passed by the second respondent vide proceedings in Detention Order in C.O.C.No.02/2019 dated 29.03.2019, whereby the detenu was ordered to be detained under the provisions of the Tamil Nadu Act 14 of 1982, branding him as a "Drug Offender".

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

2.As per the grounds of detention, dated 29.03.2019, the detenu came under adverse notice in the ground case, which was registered



in Crime No.60/2018 on the file of the NIBCID Unit, Nagapattinam, who is the sponsoring authority, for offence under Sections 8(c) r/w 20(b) (ii) (C), 29(1), 25 of NDPS Act, 1985.

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.60/2018 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 this Court.

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 filed a bail petition and the same is pending. 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 C.O.C.No.01/2019 dated 29.03.2019 is quashed. The detenu, namely Paulpandi, S/o.Ganapathi,



aged 33 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)

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// True Copy //

Sub Assistant Registrar(CS)

To

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

+1 CC to Mr.S.PALANIVELAYUTHAM, Advocate (SR-88903[F] dated
24/09/2019)

Order made in
H.C.P. (MD) No.348 of 2019
Dated: 24.09.2019

RR

VB(16.10.2019) 3P 7C