



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.10.2019

CORAM:

THE HONOURABLE MR. JUSTICE S. VAIDYANATHAN

AND

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

H.C.P. (MD) No. 356 of 2019

Rajendran : Petitioner
Vs.

1. The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat
Chennai-9.

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

3. The Superintendent
Madurai Central Prison,
Madurai.

: 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 Detention order No.04/2019 dated 12.04.2019 and quash the same and direct the respondents to produce the petitioner's son's body and person by name, Nagaraj, S/o. Rajendran aged about 27 years, detained as a Goonda and lodged in Madurai central prison before this Court and set him at liberty forthwith.

For Petitioner : Mr. R. Venkatesan
For Respondents : Mr. K. Dinesh Babu
Additional Public Prosecutor

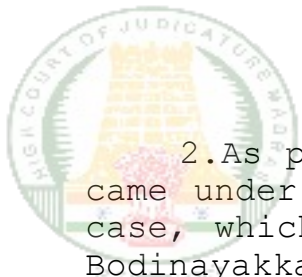
ORDER

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 Detention Order No.04/2019 dated 12.04.2019, 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 12.04.2019, the detenu came under adverse notice in three adverse cases and in the ground case, which was registered in Crime No.192/2019 on the file of the Bodinayakanur Taluk Police Station, who is the sponsoring authority, for offence under Sections 341, 294(b), 323 and 506(i) IPC r/w Section 4 of Tamilnadu prohibition of Harassment of Women Act 2002.

3. Though many grounds have been raised by the learned counsel for the petitioner, one of the ground that has been raised by the learned counsel for the petitioner is that the order of detention has been passed, based on the ground case, for which, the police have registered an FIR in Crime No.192/2019 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 Higher Court, without any supporting materials.

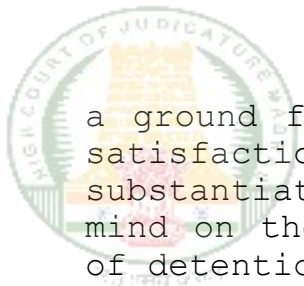
5. The learned counsel for the petitioner relied upon the judgment of the Hon'ble Supreme Court in **Rekha v. State of Tamil Nadu (2011) 5 SCC 244** to substantiate his submission.

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

7. Even though several grounds have been raised in the petition filed before this Court, it will be enough, if this Court focuses on the main ground that has been raised by the learned counsel for the petitioner. The detaining authority, at Paragraph No.5 of the detention order, mentioned that the petitioner has filed the bail application and the same is pending. However, it has been stated that in cases of similar nature, the accused persons have been granted bail by the High Court and therefore, there is imminent possibility of the detenu filing a similar bail petition and coming out on bail, after a lapse of time.

8. The issue that has been raised by the learned counsel for the petitioner is no longer *res integra* and it is covered by the judgment that has been cited by the learned counsel for the petitioner, which has been referred supra.

9. The Hon'ble Supreme Court has categorically held in the above judgment that the accused persons, who are similarly placed being granted bail by the same Court or by a higher Court, cannot be



a ground for the detaining authority to come to such a subjective satisfaction without there being any supporting materials to substantiate the same. This by itself reflects non application of mind on the part of the detaining authority. Therefore, the order of detention is liable to be interfered with.

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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 Detention Order No.04/2019 dated 12.04.2019 is quashed. The detenu, namely Nagaraj, S/o.Rajendran, aged 27 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 Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat
Chennai-9.
- 2.The District Collector and District Magistrate,
Theni District, Theni.
- 3.The Superintendent
Madurai Central Prison,
Madurai.
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.356 of 2019
Dated: 17.10.2019

TR(08.11.2019) 3P 6C