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H.C.P(MD)No.603 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.12.2019

CORAM

**THE HONOURABLE MR.JUSTICE T.RAJA
AND
THE HONOURABLE MR.JUSTICE B.PUGALENDHI**

H.C.P (MD) No. 603 of 2019

Vinuchakkaravarthi @ Sakkarai

... Petitioner

Vs.

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 600 009.
- 2.The Commissioner of Police,
Office of the Commissioner of Police,
Madurai City,
Madurai.
- 3.The Superintendent of Prison
Madurai Central Prison,
Madurai District.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Habeas Corpus to call for the entire records, connected with the detention order of the Respondent No.2 in order No.35/BCDFGISSSV/2019 dated 27.06.2019 and quash the same and direct the Respondents to produce the body or person of the detenu by name Vinuchakkaravarthi @ Sakkarai, son of Balu, aged about 23 years, now confined at Madurai Central Prison before this Hon'ble Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani

For Respondents : Mr.K.Dinesh Babu
Additional Public Prosecutor

* * * * *

ORDER

(Order of the Court was made by **T.RAJA, J.**)

The petitioner is the detenu and challenging the legality of the impugned order of detention dated 27.06.2019, passed by the



second respondent, under Section 3(1) of Tamil Nadu Prevention of Dangerous Activities of Bootleggers, 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) and branding him as 'Goonda' in No.35/BCDFGISSSV/2019, came forward to file the present Habeas Corpus Petition.

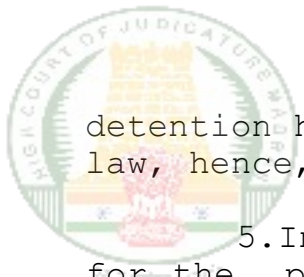
2.A perusal of the Grounds of Detention dated 27.06.2019, passed by the 2nd respondent herein, would disclose among other things that the detenu, viz., Vinuchakkaravarthi @ Sakkarai came to the adverse notice in the following case:-

Sl. No.	Name of the Police Station and Crime No.	Section of Law
1.	Palamedu Police Station Cr.No.34 of 2019	U/s 147, 148, 341, 353, 307 I.P.C. r/w 5 and 25(1-A) of Arms Act, 1959

It is further stated in the grounds of detention that the detenu was involved in a case for the commission of offences under Sections 147, 148, 294(b), 302, 307, 506(ii), 34 and 109 I.P.C. in V2 Avaniyapuram Police Station Crime No.251 of 2019 (ground case). The detenu was produced before the Judicial Magistrate No.I, Madurai through P.T. Warrant on 22.03.2019 and remanded to Judicial Custody. The detaining authority on being satisfied with the materials placed by the sponsoring authority that the activities of the detenu are prejudicial to the maintenance of public order, clamped the order of detention and making a challenge to the same, the present Habeas Corpus Petition has been filed by the petitioner.

3.We have heard Mr.R.Alagumani, learned counsel appearing for the petitioner and Mr.K.Dinesh Babu, learned Additional Public Prosecutor appearing for the respondents and perused the materials available on record.

4.Learned counsel appearing for the petitioner has drawn the attention of this Court to paragraph No.5 of the detention order and would submit that the detenu Vinuchakkaravarthi @ Sakkarai has been granted conditional bail in the ground case in V2 Avaniyapuram Police Station Crime No.251 of 2019 by the Principal Sessions Judge, Madurai in CrI.M.P.No.2452 of 2019 on 25.06.2019 and alleging he has been granted conditional bail in the adverse case in Palamedu Police Station in Crime No.34 of 2019, by the learned Judicial Magistrate, Vadipatti in Cr.M.P.No.2989 of 2019 on 19.06.2019, he is still in remand in the said two cases as he has not produced the required sureties before the Court concerned as ordered in the bail orders. However, in order to scuttle the grant of bail by the Courts and to



detention has been passed, that is unjustified and impermissible in law, hence, the impugned order of detention is liable to be quashed.

5. In support of his submission, the learned counsel appearing for the petitioner has relied upon an unreported decision of this Court **dated 05.07.2018** made in **H.C.P. (MD) No.948 of 2018** in the matter of **Selvakumar v. The Secretary to Government, State of Tamil Nadu and two others**. The relevant portion of the order runs thus:

"3. The order of detention reflects a most blatant attempt to scuttle the grant of bail by this Court to the detenu and defeat the order passed by this Court. The detention order dated 27.06.2018 informs that the detenu has been granted bail on the very same date under orders in Crl.O.P. (MD) No.9959 of 2018, on 27.06.2018 and thereafter proceeds to state that the detenu has not produced sureties, as ordered by this Court.

4. We fail to understand how the Detaining Authority can insist that the detenu to produce the sureties on the very date of the order of bail granted by this Court and how not doing so can be stated as a reason informing likelihood of the detenu being released on bail and therefore need for his detention."

6. The learned Additional Public Prosecutor appearing for the respondents after going through the order passed by this Court in **H.C.P. (MD) No.948 of 2018 dated 05.07.2018** in **Selvakumar's** case is unable to sustain the impugned order of detention. We are also in full agreement with the contention placed before us that when there are two Courts below viz., the learned Judicial Magistrate, Vadipatti has granted bail in the adverse case in Crl.M.P.No.2989 of 2019 on 19.06.2019 and the Principal Sessions Court, Madurai in the ground case in Crl.M.P.No.2452 of 2019 on 25.06.2019, passing of the detention order just two days after grant of bail in the ground case for the reason that the recourse to normal criminal law would not have the desired effect of effectively preventing him from indulging in such activities which are prejudicial to maintenance of public order would show that the impugned order of detention is an attempt to scuttle the grant of bail by the Courts below and to defeat the orders of the Courts and as such, on the said ground the impugned order of detention is liable to be set aside.

7. In the result, the Habeas Corpus Petition is allowed by setting aside the Order of Detention passed by the second respondent herein, namely, the Commissioner of Police, Madurai City, Madurai in No.35/BCDFGISSSV/2019 dated 27.06.2019. Consequently, the detenu, namely, Vinuchakkaravarathi @ Sakkarai, son of Balu, aged 23 years, who is now detained at Madurai Central Prison is directed to be



released forthwith unless his presence [or] custody [or] detention is required in connection with any other case/proceedings.

Sd/-

Assistant Registrar ()

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Sub Assistant Registrar(CS)

sj

To

- 1.The Additional Chief Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 600 009.
- 2.The Commissioner of Police,
Office of the Commissioner of Police,
Madurai City,
Madurai.
- 3.The Superintendent,
Madurai Central Prison,
Madurai District.
4. The Joint Secretay to Government,
Public (Law & Order)
Fort St. George, Chennai-9
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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VB(08.01.2020) 4P 6C