



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.08.2019

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MR.JUSTICE B.PUGALENDHI

H.C.P (MD) No.76 of 2019

Anju Alias Manikandan

... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by the Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600 009.

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

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

... Respondents

Prayer: Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Habeas Corpus, to call for the entire records connected with the detention order passed in M.H.S. Confdl No.06 / 2019, dated 04.01.2019 on the file of the second respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu namely Anju alias Manikandan, aged about 27 years S/o.Maduraiveeran, now detained at Central Prison, Palayamkottai, before this Court and set him at liberty forthwith.

For Petitioner : Mr.K.M.Karunakaran
for Mr.S.Mahendrapathy

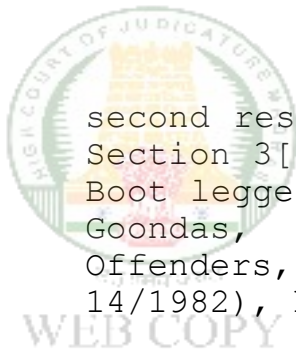
For Respondents : Mr.K.Dinesh Babu,
Additional Public Prosecutor

O R D E R

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

The detenu himself is the petitioner herein and challenging the impugned order of detention dated 04.01.2019 passed by the

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



second respondent, branding him as a Goonda under the provisions of Section 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 14/1982), he has filed the present habeas corpus petition.

2.A perusal of the Grounds of Detention dated 04.01.2019, passed by the second respondent herein, would disclose that the detenu, viz., Anju alias Manikandan came to the adverse notice in the following ten cases:-

Sl. No.	Name of the Police Station and Crime No.	Sections of Law
1.	Elathur Police Station Cr.No.94 of 2017	379 IPC
2.	Elathur Police Station Cr.No.164 of 2017	379 IPC
3	Elathur Police Station Cr.No.235 of 2017	379 IPC
4	Ayikudi Police Station Crime No.194 of 2019	457 and 380 IPC
5	Ayikudi Police Station, Crime No.225 of 2017	457 and 380 IPC
6	Elathur Police Station Crime No.288 of 2017	379 IPC
7	Ayikudi Police Station Crime No.66 of 2018	457 and 380 IPC
8	Elathur Police Station Crime No.173 of 2018	380 IPC
9	Elathur Police Station Crime No.181 of 2018	450, 376 and 506(ii) IPC and 4 of Protection of Children from Sexual Offences Act, 2012.
10	Elathur Police Station 180 of 2018	147, 148, 294(b), 323, 324, 506(ii) IPC and 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002



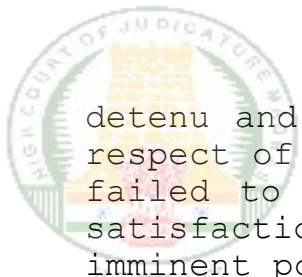
3.The grounds of detention would further read that based on a complaint given by one Mupudathi, Elathur Police Station registered a case against the detenu in crime No.272 of 2018 [Ground case] for the commission offence under Sections 294(b), 387, 506(ii) IPC, with regard to the crime which took place at 16.30 hours on 29.11.2018. The detenu was arrested on 02.12.2018 in connection with the ground case and thereafter his formal arrest was effected in all adverse cases. The detenu was produced before the Court of Judicial Magistrate, Shenkottai and the Detaining Authority, on a perusal and consideration of the materials, has derived the subjective satisfaction that the activities of the detenu were prejudicial to the maintenance of the public peace and order and as such, branded him as a Goonda and detained him under the provisions of the Tamil Nadu Act 14 of 1982, by clamping the impugned order of detention and challenging the legality of the same, the present Habeas Corpus Petition is filed.

4.The learned Counsel for the petitioner has drawn the attention of this Court to paragraph No.6 of the grounds of detention and would submit that the detenu is in custody in connection with adverse cases 1 to 8 and he did not file any bail application and the detaining authority in order to derive subjective satisfaction as to the real and imminent possibility of the detenu coming out on bail and indulge in activities, which are prejudicial to the maintenance of public peace and order, has relied upon the order dated 09.11.2016 passed in CrMP No.5245 of 2016 by the Judicial Magistrate, Cheranmahadevi and the order dated 12.02.2016 made in CrMP No.586 of 2016 passed by the Judicial Magistrate, Sivagiri and has also drawn the attention of this Court to page Nos.527 and 563 of the booklet and would submit that the said orders cannot be considered as orders passed in similar case and according to the detaining authority, the detenu is facing ten adverse cases, and out of which, in adverse case Nos.9 and 10, the detenu did not file any bail application and hence, prays for quashment of the detention order.

5.Per contra, Mr.K.Dinesh Babu, learned Additional Public Prosecutor appearing for the State would submit that the Detaining Authority, after due and proper application of mind has rightly clamped the order of detention and prays for dismissal of this petition.

6.This Court has considered the rival submissions and also perused the materials placed before it.

7.As rightly pointed out by the learned Counsel for the petitioner, a perusal of the orders granting bail in similar cases would disclose that the concerned petitioner/ accused did not have any antecedents, whereas in the case on hand, according to the



detenu and out which, the detenu did not file bail applications in respect of adverse case Nos.9 and 10 and the detaining authority has failed to advert to the said facts and therefore, the subjective satisfaction derived by the detaining authority there is real and imminent possibility of the detenu coming out on bail and indulge in the activities, which are prejudicial to the public peace and order is vitiated and hence, the detention order is liable to be quashed.

8.In the result, the Habeas Corpus Petition is allowed by setting aside the Order of Detention passed by the second respondent herein, namely, the District Collector and District Magistrate, Tirunelveli District, Tirunelveli in M.H.S.Confdl.06/2019, dated 04.01.2019. Consequently, the detenu, namely, Anju alias Manikandan, son of Maduraiveeran, aged about 27 years, who is now detained at Central Prison, Palayamkottai, 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

// True Copy //

Sub Assistant Registrar(CS)

dsk

To

- 1.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Tirunelveli District, Tirunelveli.
- 3.The Joint Secretary to Government,
Public (Law and Order),
Fort St. George, Secretariat, Chennai - 9
- 4.The Superintendent of Prison,
Central Prison, Palayamkottai, Tirunelveli.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

H.C.P (MD) No.76 of 2019
16.08.2019

JMN(01.10.2019) 4P : 6C