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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.06.2019

CORAM:

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

and

THE HONOURABLE MR. JUSTICE B. PUGALENDHI

H.C.P(MD)No.1795 of 2018

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... Petitioner

Vs.

1. The Principal Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 600 009.
 2. The District Magistrate and the District Collector,
Office of the District Magistrate and the District Collector,
Dindigul District,
Dindigul.
 3. The Superintendent of Prison,
Madurai Central Prison,
Madurai District.
- ... Respondents

Prayer: Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Habeas Corpus, calling for the entire records, connected with the detention order of the Respondent No.2 in Detention Order No.107/2018 dated 15.12.2018 and quash the same and direct the Respondents to produce the body or person of the detenu by name Alex @ Alageswaran, son of Murugan, aged about 30 years, now detained in Madurai Central Prison before this Hon'ble Court and set him at liberty forthwith.

For Petitioner

: Mr.R.Alagumani

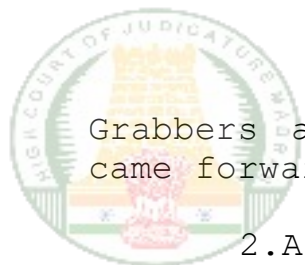
For Respondents

: Mr.K.Dinesh Babu
Additional Public Prosecutor

O R D E R

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

The petitioner is the mother of the detenu and challenging the legality of the impugned order of detention dated 15.12.2018 passed by the 2nd respondent, in and by which, the detenu has been branded 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



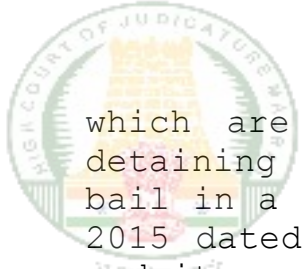
Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14/1982), came forward to file the present habeas corpus petition.

2.A perusal of the Grounds of Detention dated 15.12.2018, passed by the 2nd respondent herein, would disclose among other things that the detenu, viz., Alex @ Alageswaran came to the adverse notice in the following three cases:-

Sl. No.	Name of the Police Station and Crime No.	Section of Law
1.	Ammaiyanaickenur Police Station Cr.No.391 of 2016	397 I.P.C. @ 394 I.P.C.
2.	Vadipatty Police Station Cr.No.357 of 2017	394 I.P.C.
3.	Ammaiyanaickenur Police Station Cr.No.275 of 2016	397 I.P.C.

It is further stated in the grounds of detention that on 15.10.2018 at 10.30 hours, one Justin Diraviam, a resident of Santlerpuram, Nilakottai Taluk lodged a complaint on the file of Ammaiyanaickenur Police Station stating among other things that at about 10.00 hours on that day, when he along with his friend were standing near Pallapatty bus top, the detenu, whose identity came to be known subsequently, demanded money to consume liquor. When he refused to give money, he snatched Rs.500/- from his shirt pocket. When the defacto complainant and his friend raised alarm and the public came near them to nab the detenu, he threatened them with dire consequences by brandishing the knife and taking advantage of the situation, the detenu fled away. On the basis of the complaint given by the defacto complainant, Ammaiyanaickenur Police registered a case in Crime No.277/2018 for the commission of the offences u/s.392 r/w 397 and 506(ii) I.P.C. (ground case) and took up the case for investigation. The detenu was arrested on 15.10.2018 and later on he was produced before the Court of Judicial Magistrate, Nilakottai and remanded to judicial custody upto 29.10.2018 and the period of remand was consequently extended upto 21.12.2018. The Detaining Authority on being satisfied that the activities of the detenu were prejudicial to the maintenance of the public peace and order, 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.

3. The learned counsel for the petitioner would submit that the detenu is in custody in connection with the ground case and he was enlarged on bail in the adverse cases and in order to derive the subjective satisfaction that there is imminent possibility of the detenu coming out on bail and will indulge in such activities,



which are prejudicial to the maintenance of public order, the detaining authority has placed reliance upon the order granting bail in a similar case pertains to one Raevan in Cr.M.P.No.3237 of 2015 dated 20.04.2015 by the Court of Judicial Magistrate, Palani and it cannot be a similar case for the reason that the petitioner therein got statutory bail, whereas the detenu is not entitled to statutory bail and therefore, there was total non-application of mind on the part of the detaining authority as to the factual aspects and therefore, he prays for quashment of the impugned order of detention.

4.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.

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

6.It is to be noted at this juncture that as per the grounds of detention, the petitioner came to adverse notice of three cases, two cases were registered by Ammaiyanackur Police Station and one case was registered by Vadipatti Police Station. In the said cases, the detenu said to have involved in the commission of offences 397 I.P.C. @ 394 I.P.C., 397 I.P.C. and 394 I.P.C. respectively and in the considered opinion of this Court, the said fact would disclose that the detenu is in the habit of filing bail applications and his bail applications were considered and he was enlarged on bail and that itself would be sufficient material to show that in all probability in the ground case he would have been enlarged on bail. But, curiously the detaining authority has taken into account the order granting relief to one Revan and Satheeshkumar, which is available in page No.176, which would show that they were released on statutory bail. The sponsoring authority is also expected to apply his mind while placing the papers before the detaining authority for passing the order of detention and unfortunately it is not done so. In the considered opinion of this Court, the similar order cannot be treated to be similarly placed as that of the ground case and as such the impugned order of detention is vitiated and 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 District Collector, Dindigul District in Detention Order No.107 of 2018 dated 15.12.2018. Consequently, the detenu, namely, Alex @ Alageswaran, son of Murugan, aged about 30 years, who is now detained at Central



Prison, Madurai is directed to be released forthwith unless his presence [or] custody [or] detention is required in connection with any other case/proceedings.

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Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS)

To

- 1.The Principal Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 600 009.
- 2.The District Magistrate and the District Collector,
Office of the District Magistrate and the District Collector,
Dindigul District,
Dindigul.
- 3.The Superintendent of Prison,
Madurai Central Prison,
Madurai District.
- 4.The Joint Secretary to Govt. Public(Law and Orer)
Fort St. George, Chennai-9
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

H.C.P(MD)No.1795 of 2018
4.06.2019

BUC (CS) (19/06/2019) 4P/6C