



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED: 30.04.2019

CORAM:

**THE HONOURABLE MR. JUSTICE P.N.PRAKASH**

**AND**

**THE HONOURABLE MR. JUSTICE B.PUGALENDHI**

**H.C.P. (MD) No.1702 of 2018**

Poolammal

: Petitioner

Vs.

1. The Principal Secretary to Government  
Home, Prohibition and Excise Department,  
State of Tamilnadu  
Fort St. George, Chennai-9.
2. The District Collector and District Magistrate  
Tirunelveli District  
Tirunelveli.
3. The Superintendent of Prison  
Palayamkottai Central Prison,  
Tirunelveli District.

: 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 M.H.S.Confdl.No.135/2018 dated 16.11.2018 and quash the same and direct the respondents to produce the detenu by name Velladurai, son of Karuppasamy, aged about 22 years, now detained in Palayamkottai Central Prison, before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Vinoth Bharathi  
For Respondents : Mr.M.Chandrasekaran  
Additional Public Prosecutor

**ORDER**

**B. PUGALENDHI, J**

The petitioner is the wife of the detenu viz., Velladurai, S/o.Karuppasamy, aged about 22 years. The detenu has been detained, as per the order of the second respondent, dated 16.11.2018, under Section 2(f) of the Tamil Nadu Act 14 of 1982, branding him as "GOONDA". Challenging the same, the petitioner is before this Court in this Habeas Corpus Petition.

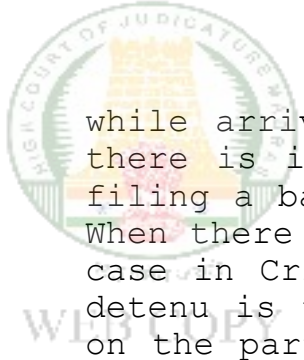
2. We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents. We have also perused the records carefully.



3. In paragraph No.6 of the grounds of detention, it is stated as follows:

"6.I am aware that the bail was granted to Thiru.Velladurai before the Judicial Magistrate, No.V, Tirunelveli in Cr.M.P.No.445/2014 on 10.10.2014 in Manur Police Station Crime Number 331/2014. I am aware that he has not filed any bail application so far in Devarkulam Police Station Crime Number 152/2018. I am also aware that there is real possibility for his coming out on bail in future by filing bail application for the above case since in similar cases bails are granted by the appropriate courts. I am also aware that in a similar case bail has been granted to Abdul Rahman in Cr.M.P.No.1803/2015 on 06.04.2015 by the Sessions Court, Tirunelveli. I therefore infer that there is real possibility of Thiru.Velladurai coming out on bail Devarkulam Police Station Crime Number 152/2018; since bails are granted by the appropriate courts in such cases. I am aware that Thiru.Velladurai is in remand in Manur Police Station Crime Number 380/2018 and in this case he filed a bail petition before the Judicial Magistrate No.V, Tirunelveli in CRMP No.5359/2018 and the bail petition was dismissed on 02.11.2018 and further in this case the bail was dismissed to him before the same Court in CRMP No.5390/2018 on 12.11.2018 and further, he filed another bail petition before the Sessions Court, Tirunelveli in CRMP No.6286/2018 on 15.11.2018 in this case and the bail petition is yet to be disposed. I am also aware that he is very likely to come out on bail in this case. I am also aware that in a similar case bail has been granted to Ajith in CRMP No.2177/2018 on 17.05.2018 by the Judicial Magistrate, NO.V, Tirunelveli. I therefore, infer that there is very likely of Thiru.Velladurai coming out on bail in Manur Police Station Crime Number 380/2018; since bails are granted by the appropriate courts in such cases. If he comes out on bail, he will indulge in further activities in future, which will be prejudicial to the maintenance of the public order. Further, 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 the maintenance of the public order. On the materials placed before me, I am satisfied that Thiru.Velladurai is a "Goonda" and there is a compelling necessity to detain him in order to prevent him from indulging in acts which are prejudicial to the maintenance of public order under the provisions of the Tamil Nadu Act 14 of 1982."

4. Though a number of grounds have been raised assailing the order of detention, at the time of making submission, the learned counsel for the petitioner submitted that the detaining authority,



while arriving at a subjective satisfaction, has observed that there is imminent possibility of the detenu coming out on bail by filing a bail application in the adverse case in Crime No.152/2018. When there is no bail application filed by the detenu in the adverse case in Crime No.152/2018, the chance of coming out on bail by the detenu is too remote and as such, there is non application of mind on the part of the detaining authority. Hence, on that ground, the detention order is liable to be set aside.

5. The submissions made by the learned Additional Public Prosecutor in reply to the above said contention raised by the learned counsel for the petitioner are also heard.

6. Upon perusing the grounds of detention, it is clear that the detenu is in remand in the second adverse case in Crime No.154/2018 as well in the ground case in Crime No.380/2018. In the grounds of detention, it is stated that the detenu has not filed any bail application in the adverse case in Crime No.152/2018. While that being so, the imminent possibility of coming out on bail by the detenu may not be there. Hence, there is non application of mind on the part of the detaining authority in arriving at a subjective satisfaction that the detenu is likely to come out on bail by filing bail application. Therefore, on that score alone, the order of detention is liable to be set aside.

7. In the result, this Habeas Corpus Petition is allowed and the impugned Detention Order, passed by the second respondent, in his proceedings in M.H.S.Confdl.No.135/2018 dated 16.11.2018 is quashed. The detenu, namely Velladurai, S/o.Karuppasamy, aged about 22 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

To

1. The Principal Secretary to Government  
Home, Prohibition and Excise Department,  
State of Tamilnadu  
Fort St. George, Chennai-9.
2. The District Collector and District Magistrate  
Tirunelveli District  
Tirunelveli.
3. The Superintendent of Prison  
Palayamkottai Central Prison,  
Tirunelveli District.



4. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

5. The Joint Secretary to Govt.,  
Public(law&order),  
Fort st. George,  
Chennai 9

Order made in  
**H.C.P. (MD) No.1702 of 2018**  
Dated: 30.04.2019

rr  
MK/15.05.2019/4P/6C