



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **24.10.2019**

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

AND

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

H.C.P. (MD)No.630 of 2019

J.Muthukala

: Petitioner

Vs.

1.The State of Tamil Nadu,
rep by its Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-9.

2.The District Collector/District Magistrate
Collectorate,
Ramanathapuram
Ramanathapuram District.

3.The Superintendent of Central Prison,
Madurai Central Prison,
Madurai 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 in detention order passed in P.D.No.08/2019 dated 02.07.2019 passed by the respondent No.2 herein and set aside the same as illegal and direct the respondents to produce the body or person of the petitioner's husband namely, R.Jeyabharath (32/19) S/o.Ramar, who is confined at Madurai Central Prison, Madurai District before this Court and set him at liberty.

For Petitioner : Mr.I.Subramanian
Senior counsel for
Mr.C.Mayilvahana Rajendran
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 P.D.No.8/2019 dated 02.07.2019, 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 02.07.2019, the detenu came under adverse notice in one adverse case and in the ground case, which was registered in Crime No.166/2019 on the file of the Kenikarai Police Station, who is the sponsoring authority, for offence under Section 147, 148, 324, 302 and 201 IPC.

3.The detention order was passed by the second respondent on 02.07.2019. This case was taken out of turn, after it was brought to our notice that the detenu is facing serious heart ailment, we, therefore, directed the learned Additional Public Prosecutor to take instructions and report before this Court regarding the ailment suffered by the detenu.

4.The learned Additional Public Prosecutor, on instructions, submitted the medical report issued by the Dean of the Government Rajaji Hospital, Madurai.

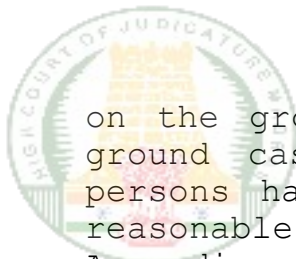
5. The relevant portion of the report is extracted hereunder:

"Mr.Jeyabharath, S/o.Ramu, 32 years old, IP No.67428, R.P.No.6870 was admitted in Government Rajaji Hospital on 19.10.2019.

Patient was a known case of Rheumatic Heart Disease on treatment. Admitted with complaints of breathlessness on 19.10.2019. Patient is being investigated and treated according to Cardiologist advice. Echocardiogram taken which showed Rheumatic Mitral Stenosis - mild to moderate, trivial Mitral Regurgitation, mild tricuspid Regurgitation. Cardiologist advised investigations to rule out Recurrent Rheumatic Fever, which is being done. Cardiothoracic Surgeon advised medical management. On day 4 of admission, ie., on 22.10.2019, patient complained of cough. X Ray chest taken. Thoracic Medicine Physician opinion obtained, they advised CT scan thorax, intravenous antibiotics. Patient is at present under General physician, Cardiologist and Thoracic Medicine Physician evaluation and management."

6. It is seen from the above report that the detenu suffers from serious heart ailment. Therefore, we are convinced with the fact that the present Habeas Corpus Petition will have to be considered on medical grounds. Therefore, we have taken up the Habeas Corpus Petition for hearing.

7. Mr.I.Subramanian, learned Senior counsel appearing on behalf of the detenu, submitted that there is one adverse and a ground case. The sponsoring authority has come to a subjective satisfaction



on the ground that the bail petition filed by the detenu in the ground case is pending before this Court and similarly placed persons have already been granted bail and therefore, there is a reasonable apprehension that the detenu will be released on bail. According to the learned Senior counsel, the bail petition that was filed by the detenu was dismissed as withdrawn on 02.07.2019. Therefore, the learned Senior counsel submitted that there is no imminent possibility of the detenu being released on bail as on the date, on which, the detention order was passed.

8. The learned Additional Public Prosecutor submitted that the bail petition was dismissed as withdrawn only on the ground that the Detention Order was passed against the detenu on 02.07.2019. The learned counsel further submitted that there are four other persons also had been detained in the very same case and therefore, the present Habeas Corpus Petition need not be considered on merits, since it will have an impact on the detention orders that have been passed against the other detenues.

9. This Court does not want to go into the merits of the case and this Habeas Corpus Petition is considered only on medical grounds. This Court is convinced that the detenu is facing serious heart ailment, which may require replacement of the heart and therefore, it will not be safe to keep the detenu any further in detention and he requires immediate medical treatment.

10. In view of the above, the detention order passed against the detenu by the second respondent in P.D.No.08/2019 dated 02.07.2019 is hereby quashed only on medical grounds.

11. In the result, this Habeas Corpus Petition is allowed and the impugned Detention Order, passed by the second respondent, in his proceedings in P.D.No.08/2019 dated 02.07.2019 is quashed. The detenu, namely Jeyabharath, S/o.Ramar, male aged 32 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)

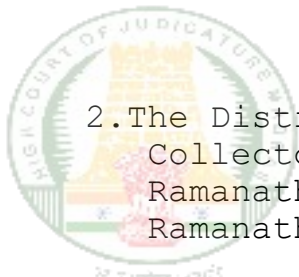
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Sub Assistant Registrar(CS)

RR

To

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



2.The District Collector/District Magistrate
Collectorate,
Ramanathapuram
Ramanathapuram District.

3. The Superintendent of Central Prison,
Madurai Central Prison,
Madurai District.

4. The Joint Secretary to Government,
Public(Law&Order),
Fort st. Geeorge, Chennai 9

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

Order made in
H.C.P. (MD) No. 630 of 2019
Dated: 24.10.2019

MK (19.11.2019) 4P 6C