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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.666 of 2019

S.Kasthuri : Petitioner /wife
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 Magistrate and District Collector,
Collectorate, Karur
Karur District.

3.The Inspector of Police,
Pasupathipalayam Circle,
Karur 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 connection with the detention order passed by the respondent No.2 in Cr.M.P.No.04/2019 dated 26.04.2019 and quash the detention order and produce the body of the petitioner's Husband, namely, Suresh @ Viji @ Vignesh now confined at Central Prison, Salem, Salem District before this Court and set him at liberty forthwith.

For Petitioner : Mr.S.Louis
For Respondents : Mr.K.Dinesh Babu
Additional Public Prosecutor

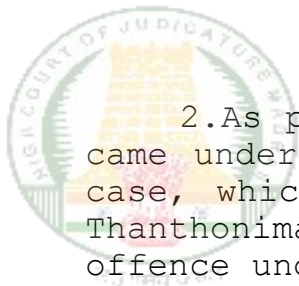
ORDER

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 Cr.M.P.No.04/2019 dated 26.04.2019, 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 26.04.2019, the detenu came under adverse notice in seven adverse cases and in the ground case, which was registered in Crime No.71/2019 on the file of the Thanthonimalai Police Station, who is the sponsoring authority, for offence under Section 392 IPC.

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3.Though many grounds have been raised in the petition, the learned counsel for the petitioner focussed his argument on the ground, wherein, the detaining authority has taken into consideration the fact that the accused, who are similarly placed, have been granted bail by the District Court.

4. The learned counsel for the petitioner submitted that the detaining authority, without the availability of materials, cannot *ipso facto* satisfy himself regarding the imminent possibility of the detenu coming out on bail, merely on the ground that the accused, who are similarly placed have been granted bail.

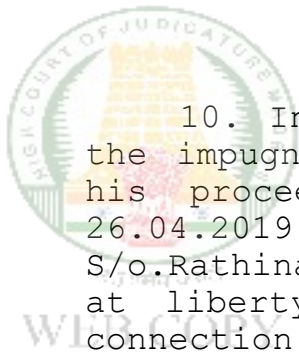
5. The learned counsel for the petitioner relied upon the judgment of the Hon'ble Supreme Court in ***Rekha v. State of Tamil Nadu ((2011) 5 SCC 244)*** to substantiate his submission.

6. We have carefully considered the submissions made on either side and the materials available on record.

7. Even though several grounds have been raised in the petition filed before this Court, it will be enough, if this Court focuses on the main ground that has been raised by the learned counsel for the petitioner. The detaining authority, at Paragraph No.5 of the detention order, mentioned that the petitioner has not filed any bail application. However, it has been stated that in cases of similar nature, the accused persons have been granted bail by the Sessions Court and therefore, there is imminent possibility of the detenu filing a similar bail petition in future and coming out on bail, after a lapse of time.

8. The issue that has been raised by the learned counsel for the petitioner is no longer *res integra* and it is covered by the judgment that has been cited by the learned counsel for the petitioner, which has been referred supra.

9. The Hon'ble Supreme Court has categorically held in the above judgment that the accused persons, who are similarly placed being granted bail by the same Court or by a higher Court, cannot be a ground for the detaining authority to come to such a subjective satisfaction without there being any materials to substantiate the same. This by itself reflects non application of mind on the part of the detaining authority. Therefore, the order of detention is liable to be interfered with.



10. In the result, this Habeas Corpus Petition is allowed and the impugned Detention Order, passed by the second respondent, in his proceedings in Detention Order in Cr.M.P.No.04/2019 dated 26.04.2019 is quashed. The detenu, namely Suresh @ Viji @ Vignesh, S/o.Rathinavel @ Thangavel, male aged 40 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(CS)

RR

To

- 1.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-9.
- 2.The District Magistrate and District Collector,
Collectorate, Karur
Karur District.
- 3.The Superintendent,Central Prison,
Salem.
- 4.The Inspector of Police,
Pasupathipalayam Circle,
Karur District.
5. The Joint Secretary to Government,
Public (Law&Order) Fort.St. George, Chennai-9.
- 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.S.LOUIS, Advocate (SR-94423[F] dated 24/10/2019)

Order made in

H.C.P. (MD)No.666 of 2019

Dated: 24.10.2019

VB(15.11.2019) 3P 8C