



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 20.12.2019
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THE HONOURABLE MR.JUSTICE T.RAJA
AND
THE HONOURABLE MR.JUSTICE B.PUGALENDHI

H.C.P (MD)No.1280 of 2019

Pemina Ramani

... Petitioner/Wife of the detenu

Vs.

1.The Additional Chief Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department (XVI),
Fort St. George,
Chennai - 600 009.

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

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

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Habeas Corpus calling for the entire records, connected with the detention order of the Respondent No.2 in P.D.O.No.81/2019 dated 22.11.2019 and quash the same and direct the Respondents to produce the body or person of the detenu by name Guhan, son of Vellaisamy, aged about 29 years, now detained as "Sand Offender" in Trichy Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani

For Respondents : Mr.K.Dinesh Babu

Additional Public Prosecutor

ORDER

(Order of the Court was made by **T.RAJA, J.**)

The petitioner is the wife of the detenu viz. Guhan and challenging the legality of the impugned order of detention dated 22.11.2019, passed by the second respondent, under Section 3(1) of Tamil Nadu Prevention of Dangerous Activities of Bootleggers, 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 of 1982) and branding him as 'Sand Offender' in P.D.O.No.81/2019, came forward to file the present Habeas Corpus Petition.

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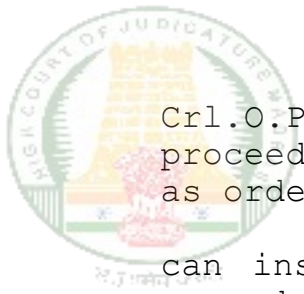
2.A perusal of the Grounds of Detention dated 22.11.2019, passed by the 2nd respondent herein, would disclose among other things that the detenu, viz., Guhan was involved in a solitary case for the commission of offences under Sections 353, 379 I.P.C. r/w 21 (1), 21(2) Mines and Minerals (Development and Regulation) Act, 1957 in Arimalam Police Station Crime No.85 of 2019 (ground case). The detenu was arrested on 16.11.2019 and produced before the Court of Judicial Magistrate, Thirumayam on the same day and remanded to Judicial custody. The detaining authority on being satisfied with the materials placed by the sponsoring authority that the activities of the detenu are prejudicial to the maintenance of public peace and public order, clamped the order of detention and making a challenge to the same, the present Habeas Corpus Petition has been filed by the petitioner.

3.We have heard Mr.R.Alagumani, learned counsel appearing for the petitioner and Mr.K.Dinesh Babu, learned Additional Public Prosecutor appearing for the respondents and perused the materials available on record.

4.Learned counsel appearing for the petitioner has drawn the attention of this Court to paragraph No.5 of the detention order and would submit that the detenu Guhan has been granted conditional bail in the ground case in Arimalam Police Station Crime No.85 of 2019 by the Principal District and Sessions Judge, Pudukkottai in Crl.M.P.No.3265 of 2019 on 21.11.2019 and he is still in remand in the said case as he has not produced the required sureties before the Court concerned as ordered in the bail order. However, in order to scuttle the grant of bail by the Sessions Court and to defeat the order passed by the Sessions Court the impugned order of detention has been passed, that is unjustified and impermissible in law, hence, the impugned order of detention is liable to be quashed.

5.In support of his submission, the learned counsel appearing for the petitioner has relied upon an unreported decision of this Court ***dated 05.07.2018*** made in ***H.C.P. (MD) No.948 of 2018*** in the matter of ***Selvakumar v. The Secretary to Government, State of Tamil Nadu and two others***. The relevant portion of the order runs thus:

"3.The order of detention reflects a most blatant attempt to scuttle the grant of bail by this Court to the detenu and defeat the order passed by this Court. The detention order dated 27.06.2018 informs that the detenu has been granted bail on the very same date under orders in



Crl.O.P.(MD) No.9959 of 2018, on 27.06.2018 and thereafter proceeds to state that the detenu has not produced sureties, as ordered by this Court.

4.We fail to understand how the Detaining Authority can insist that the detenu to produce the sureties on the very date of the order of bail granted by this Court and how not doing so can be stated as a reason informing likelihood of the detenu being released on bail and therefore need for his detention."

6.The learned Additional Public Prosecutor appearing for the respondents after going through the order passed by this Court in **H.C.P. (MD) No.948 of 2018 dated 05.07.2018** in **Selvakumar's** case is unable to sustain the impugned order of detention. We are also in full agreement with the contention placed before us that when the Principal District and Sessions Court, Pudukkottai has granted bail in the ground case in Crl.M.P.No.3265 of 2019 on 21.11.2019, passing of the detention order on the next day after grant of bail in the ground case for the reason that 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 maintenance of public order and public peace would show that the impugned order of detention is an attempt to scuttle the grant of bail by the Court below and to defeat the order of the Court and as such, on the said ground the impugned order of detention 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, Pudukkottai District, Pudukkottai in P.D.O.No.81/2019 dated 22.11.2019. Consequently, the detenu, namely, Guhan, son of Vellaisamy, aged about 29 years, who is now detained at Central Prison, Trichy 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 (CS-III)

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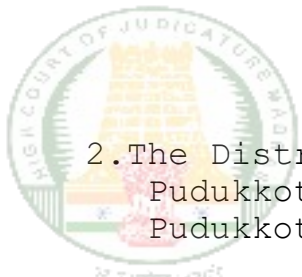
Sub Assistant Registrar(CS)

sj

To

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department (XVI),
Fort St. George, Chennai - 600 009.

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



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

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

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

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

H.C.P (MD)No.1280 of 2019
20.12.2019

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