

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.10.2020

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice D.KRISHNAKUMAR

H.C.P. No. 718 of 2020

K.Goweri

... Petitioner

-vs-

1.The Lieutenant Governor,
Rajnivas, Puducherry.

2.The District Collector cum Authorised
Officer, 1st Floor, Vazhadhavor Road,
Kavundampalayam,
Puducherry - 605 009.

3.The Chief Superintendent of Jail,
Central Prison, Kalapet,
Puducherry.

4.The Station House Officer,
Muthialpet Police Station,
Puducherry.

... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of habeas corpus to call for the records in No.07/DM/RO/D2/PPASAA/2020 dated 16.03.2020 on the file of the second respondent herein and quash the same as illegal and consequently direct the respondents to produce the detenu Vinoth, son of Kathiravan, aged 34 years, who now confined in Central Prison, Kalapet, Puducherry, before this Court and set him at liberty.

For Petitioner : Mr.K.Gandhi Kumar

For Respondents : Mr.V.Balamurugane,
: Addl. Public Prosecutor
(Puducherry)

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ORDER

[Order of the Court was made by M.M.SUNDRESH, J.]

The petitioner is the mother of the detenu and she has come up with this habeas corpus petition, challenging the detention order passed by the second respondent, vide No.07/DM/RO/D2/PPASAA/2020 dated 16.03.2020, branding the detenu as a "Dangerous Person" as contemplated under sub section (2) of Section 3 of the Puducherry Prevention of Anti-social Activities Act, 2008 (Act No.10 of 2010).

2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor (Puducherry) appearing for the respondents and we have also perused the records carefully.

3. Though the order of detention is challenged on various grounds, the main submission of the learned counsel for the petitioner is that the detaining authority has expressed subjective satisfaction with regard to the detenu coming out on bail in the cases in which he was on remand, based on the bail order passed in the second adverse case in Crime No.94 of 2019 in CrI.M.P.No.668 of 2020; whereas the copy of the bail order in the second adverse case in CrI.M.P.No.668 of 2020 was not furnished to the detenu in the booklet and there is nothing to show that such bail order was placed before the detaining authority while arriving at a subjective satisfaction and hence the subjective satisfaction expressed is not based on cogent material and it is vitiated.

4. On a perusal of the grounds of detention, it is seen that the subjective satisfaction with regard to the detenu coming out on bail in the ground case is based on the bail order in the second adverse case in Crime No.94 of 2019 in CrI.M.P.No.668 of 2020. The copy of the bail order in CrI.M.P.No.668 of 2020 is not found in the booklet. There is nothing on record to show that the said bail order was placed before the detaining authority while clamping the order of detention. In such circumstances, the subjective satisfaction expressed is not based on cogent material and on this ground alone, the order of detention is vitiated and liable to be set aside.

5. In the result, the Habeas Corpus Petition is allowed and the order of detention in No.07/DM/RO/D2/PPASAA/2020 dated 16.03.2020 passed by the second respondent is set aside. The detenu, namely, Vinoth, son of Kathiravan, aged 34 years, is

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directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

mmi/ssm

To

- 1.The Lieutenant Governor,
Rajnivas, Puducherry.
- 2.The District Collector cum Authorised Officer,
Kavundampalayam,
Puducherry - 605 009.
- 3.The Chief Superintendent of Jail,
Central Prison, Kalapet, Puducherry.
- 4.The Station House Officer,
Muthialpet Police Station,
Puducherry.
- 5.The Public Prosecutor,
Puducherry.

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MP (CO)
CB (23/11/2020)

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