

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2020

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

H.C.P.No.2178 of 2019

M.Selvi
W/o.Muthusamy

... Petitioner

Vs

1.The District Collector and District Magistrate,
(Full Additional Charge of Cuddalore District),
Cuddalore.

2.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Govt. of Tamil Nadu,
Chennai - 600009.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus calling for the records of first respondent in C3/D.O./64/2019 dated 06.09.2019 and set aside the same and direct the first respondent to produce the detenu Surendhar S/o.Muthusamy, aged 35 years, now confined at Central Prison, Palayankottai, before this Court and set him at liberty.

For Petitioner : Mr.C.D.Johnson
For Respondents : Mr.R.Prathap Kumar
Additional Public Prosecutor

W E B C O P Y
O R D E R
[Order of this Court was made by R.SUBBIAH, J]

Petitioner is the mother of the detenu viz. Surendhar S/o.Muthusamy, aged 35 years, who has been branded as a 'Goonda' under the Tamil Nadu Act 14 of 1982 and detained under order of first respondent passed in C3/D.O./64/2019 dated 06.09.2019.

2. The detenu came to adverse notice in the following cases:

Sl.No .	Police Station/Crime No.	Section of Law
1.	Sulur P.S., Crime No.592/2015	147, 148, 341, 307, 302 IPC and 25[1-B][a] and 27 of Arms Act, 1959
2.	Annamalai Nagar P.S., Crime No.24/2019	25[1-B][a] Arms Act, 1959 r/w 4 [b], 5 of The Explosive Substances Act, 1908.

The alleged ground case has been registered against the detenu in Crime No.195 of 2019 on the file of Annamalai Nagar Police Station for offences u/s.341, 294(b), 392 r/w 397 and 506(ii) IPC. Aggrieved by the order of detention, the present writ petition has been filed.

3. Heard learned counsel for petitioner and learned Additional Public Prosecutor appearing for respondents. Perused the materials on record.

4. Learned counsel for petitioner submits that despite the admitted position that the detenu's bail application in the ground case was dismissed, the detaining authority has informed a real possibility of his coming out on bail by filing a bail application since in a similar case bail was granted by learned District and Sessions Judge, Cuddalore, in Cr.M.P.No.2011 of 2019 in respect of Crime No.137 of 2019 on the file of Panruti Police Station for offences u/s.294(b), 341, 394, 427, 397 and 506(ii) IPC. Learned counsel submits that in the case cited as similar, the offences are different from that of the offences in the ground case. The non-consideration of such aspect reflects non-application of mind.

5. We have heard learned Additional Public Prosecutor on the above submissions.

6. As rightly submitted by learned counsel for petitioner, the offences alleged in the similar case, relied on by the detaining authority in arriving at a subjective satisfaction, are different from that of the offences alleged in the ground case. Hence, we find that the order of detention suffers from non application of mind.

Accordingly, the Habeas Corpus Petition is allowed and the detention order passed by the first respondent against the detenu viz., Surendhar S/o.Muthusamy, in C3/D.O./64/2019 dated 06.09.2019, is quashed. The above named detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

Sd/-
Assistant Registrar(CS-III)

// True Copy//

Sub Assistant Registrar

gm

To

- 1.The District Collector and District Magistrate,
(Full Additional Charge of Cuddalore District),
Cuddalore.
- 2.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Govt. of Tamil Nadu,
Chennai - 600009.
- 3.The Joint Secretary to Government,
Public (Law and Order),
For St.George, Chennai-09.
- 4.The Superintendent of Central Prison,
Palayankottai.
- 5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.2178 of 2019

VD(CO)
CSR: 06/01/2020

WEB COPY