



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.05.2020

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Ms. Justice P.T.ASHA

H.C.P. No.2672 of 2019

Anbu ... Petitioner/
Father of Detenu
-vs-

1. The Secretary to the Government,
Home Prohibition and Excise Dept.,
Secretariat, Chennai - 600 009.
2. The District Collector &
District Magistrate,
Vellore District,
Vellore - 9. ... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus to call for the records in connection with the order of Detention passed by the second respondent dated 18.11.2019 in Memo No.C3/D.O.No.125/2019 against the petitioner's son Krishna, male, aged 23 years S/o.Anbu, who is confined at Central Prison, Vellore and set aside the same and direct the respondents to produce the detenu before the Court and set him at liberty.

For Petitioner .. Mr.S.Senthilvel
For Respondents .. Mr.R.Prathap Kumar,
Addl. Public Prosecutor

ORDER

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

The petitioner is the father of Krishna, male, aged 23 years, S/o.Anbu, who is the detenu. The detenu has been detained by the second respondent by his order in Memo No.C3/D.O.No.125/2019 dated 18.11.2019, holding him to be a "Goonda", as contemplated under Section 2(f) of the Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.

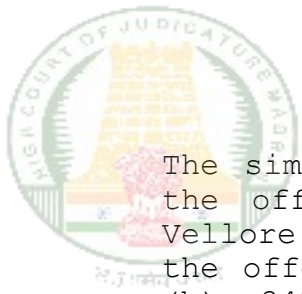
2. We have heard the learned counsel appearing for the



3. The main argument of the learned counsel appearing for the petitioner is that the case relied on by the detaining authority is not similar in nature and the offences in the ground case are totally different. Therefore, the likelihood of the detenu coming out on bail is not there and the subjective satisfaction arrived by the detaining authority is not proper.

"5.I am aware that Thiru.Krishna was produced before the Judicial Magistrate No.I, Vellore on 23.10.2019 in the ground case in Ariyur Police Station Crime No.368/2019 u/s.294(b), 341, 392, 560(ii) IPC and was remanded to judicial custody and lodged at Central Prison, Vellore as remand prisoner till 05.11.2019. Further, his remand period was extended upto 19.11.2019. I am aware that Thiru.Krishna has filed a bail application before the Court of the Judicial Magistrate No.I, Vellore in ground case in Ariyur Police Station Crime No.368/2019 u/s 294(b), 341, 392, 506(ii) IPC in CrI.M.P.No.8957/2019 and the same was dismissed on 11.11.2019. As far as the ground case concerned in a similar case registered at Vellore North Crime Police Station Crime No.200/2017 under Section 294(b), 394, 397, 506(i) IPC bail was granted to the accused Thiru.Nandhu @ Nandhakumar by the Court of Principal District Judge, Vellore in CrI.M.P.No.2714/2017 on 07.07.2017. As bails are being granted by courts in such cases, there is most likely that he (Thiru Krishna) may coming out of bail by filing another bail application in the higher court. If he enlarge himself on bail, he would indulge in further activities which will be prejudicial to the maintenance of public order and public peace....."

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



The similar case relied on by the authority was registered for the offences under Sections 294(b), 394, 397, 506(i) IPC in Vellore North Crime Police Station Crime No.200/2017 whereas the offences involved in the ground case are under Sections 294 (b), 341, 392, 560(ii) IPC. Therefore, there is non-application of mind on the part of the detaining authority in not considering the similar case for arriving at subjective satisfaction. Hence the impugned order of detention is liable to be set aside.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in Memo No.C3/D.O.No.125/2019 dated 18.11.2019, passed by the second respondent is set aside. The detenu, namely, Krishna, male, aged 23 years, S/o.Anbu, is directed to be released forthwith unless his detention is required in connection with any other case.

s/d-
Assistant Registrar (CS-III)

True Copy

Sub-Assistant Registrar

mmi/ms

To

1. The Secretary to the Government,
Home Prohibition and Excise Dept.,
Secretariat, Chennai - 600 009.
2. The District Collector &
District Magistrate,
Vellore District,
Vellore - 9.
3. The Public Prosecutor,
High Court, Madras.
4. The Secretary to the Government,
Public (Law & Order)
Fort. St. George,
Chennai-9
5. The Superintendent,
Central Prison,
Vellore.

H.C.P.No.2672 of 2019

BS (08/06/2020)
RMP (13/07/2020)