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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 03.07.2020**

**CORAM:**

**THE HONOURABLE MR.JUSTICE P.N.PRAKASH**

**and**

**THE HONOURABLE MR.JUSTICE B.PUGALENDHI**

**H.C.P(MD)No.82 of 2020**

Shanthi

...Petitioner

Vs.

- 1.The Additional Chief Secretary to Government,  
Home, Prohibition and Excise Department,  
Fort St. George,  
Chennai - 600 009.
- 2.The District Collector and District Magistrate,  
O/o.The District Collector and District Magistrate,  
Sivagangai District,  
Sivagangai.
- 3.The Inspector of Police,  
Manamadurai Police Station,  
Sivagangai District.
- 4.The Superintendent of Prison,  
Central Prison,  
Madurai.

... Respondents

Prayer: Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Habeas Corpus, calling for the entire records, connected with the detention order of respondent No.2 in Cr.M.P.No.21/Goonda/2019 dated 16.09.2019 and quash the same and direct the respondents to produce the body or person of the detenu, namely, Vasanthasaran, S/o.Thesigan, aged about 21 years, now detained at Central Prison, Madurai, before this Court and set him at liberty forthwith.

|                 |                              |
|-----------------|------------------------------|
| For Petitioner  | : Mr.M.S.Jeyakarthick        |
| For Respondents | : Mr.R.Anandharaj            |
|                 | Additional Public Prosecutor |

**O R D E R**

(Order of the Court was made by **B.PUGALENDHI, J.**)

The mother of the detenu is the petitioner herein and challenging the impugned order of detention dated 16.09.2019 passed by the second respondent, branding her son as a 'Goonda' under the provisions of Section 3[1] of the Tamil Nadu Prevention of Dangerous



Activities of Boot leggers, 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 14/1982), she has filed the present habeas corpus petition.

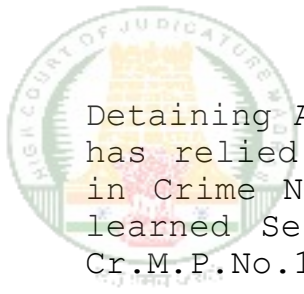
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2. A perusal of the Grounds of Detention dated 16.09.2019, passed by the second respondent herein, would show that the detenu came to the adverse notice in the following cases:-

| Sl. No. | Name of the Police Station and Crime No.        | Sections of Law                                                                            |
|---------|-------------------------------------------------|--------------------------------------------------------------------------------------------|
| 1.      | Manamadurai Police Station<br>Cr.No.142 of 2019 | 147, 148, 294(b),<br>324, 307 IPC @ 294<br>(b), 324, 307 IPC                               |
| 2.      | Manamadurai Police Station<br>Cr.No.148 of 2019 | 454 / 457, 380 IPC @<br>457, 380 IPC                                                       |
| 3.      | Manamadurai Police Station<br>Cr.No.201 of 2019 | 147, 148, 294(b),<br>448, 323, 324, 379,<br>506(ii) IPC & Section<br>3 of TNPPDL Act       |
| 4.      | Manamadurai Police Station<br>Cr.No.295 of 2019 | 147, 148, 294(b),<br>324, 307 IPC & 3(1)<br>(r)(s), 3(2)(v), 3(2)<br>(va) SC/ST (POA) Act. |

It is further stated in the grounds of detention that the detenu was also involved in the commission of offence under Section 392 r/w 397, 506(ii) IPC in Crime No.296 of 2019, on the file of the Manamadurai Police Station. The detenu was arrested on 10.08.2019 and was produced before the Judicial Magistrate, Manamadurai on 10.08.2019 and was ordered to be remanded to judicial custody till 22.08.2019 and his remand was periodically extended upto 19.09.2019. The Detaining Authority, on a perusal and consideration of the materials, has derived the subjective satisfaction that the activities of the detenu were prejudicial to the public order and peace and as such, branded him as a Goonda and detained him under the provisions of the Tamil Nadu Act 14 of 1982, by clamping the impugned order of detention and challenging the legality of the same, the present Habeas Corpus Petition is filed.

3. The learned counsel for the petitioner has drawn the attention of this Court to the grounds of detention and would submit that the detenu was arrested in connection with all the four adverse cases and the ground case. In respect of the second and third adverse cases, the detenu has filed bail applications before the Sessions Court, Sivagangai, in Cr.M.P.Nos.1439 of 2019 and 1190 of 2019, respectively, and was also enlarged on bail. In respect of the ground case, his bail application in Cr.M.P.No.5057 of 2019 was dismissed by the learned Judicial Magistrate, Manamadurai. The



Detaining Authority, in order to derive the subjective satisfaction, has relied upon a similar case registered by Sipcot Police Station in Crime No.114 of 2015 as well as the order granting bail by the learned Sessions Judge, Sivagangai vide order dated 09.07.2015 in Cr.M.P.No.1942 of 2015 to the accused therein.

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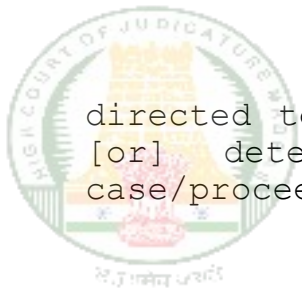
4. It is the primordial submission of the learned Counsel for the petitioner that the subjective satisfaction is derived only with regard to the similar case like the ground case and the Detaining Authority has not taken into consideration of the fact that the detenu is in remand in connection with the first and fourth adverse cases also. He would further submit that even assuming that the detenu is going to come out on bail in the ground case, still it would not be possible for him to indulge in activities, which are prejudicial to the maintenance of public order and peace, unless or until he gets orders of bail in other adverse cases also and the said fact has been completely overlooked by the Detaining Authority, as such, the subjective satisfaction derived by the Detaining Authority is wholly vitiated and hence, prays for quashment of the impugned order of detention.

5. Per contra, Mr.K.Dinesh Babu, learned Additional Public Prosecutor appearing for the State by drawing the attention of this Court to the impugned order of detention, would submit that the Detaining Authority, after due and proper application of mind has rightly clamped the order of detention and prays for dismissal.

6. This Court has considered the rival submissions and also perused the entire materials placed before it.

7. As rightly pointed out by the learned counsel for the petitioner, though the detenu was enlarged on bail in respect of the second and third adverse cases alone, similar material was placed only in respect of the ground case and even for the sake of arguments that the detenu is going to come out on bail in the ground case, still it would not be possible for him to indulge in activities which are prejudicial to the maintenance of public order and peace, unless he gets orders of bail in the other adverse cases also. However, the said material fact has been completely overlooked by the Detaining Authority. Therefore, this Court is of the view that the subjective satisfaction derived by the Detaining Authority in that regard is totally vitiated, as such, the impugned order of detention is liable to be set aside and the same is accordingly, quashed.

8. 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 and District Magistrate, Sivagangai District, Sivagangai, in Cr.M.P.No.21/Goonda/2019 dated 16.09.2019. Consequently, the detenu, namely, Vasanthsaran, aged 21 years, who is now detained at Central Prison, Madurai 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 (AS)

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/ /2020

Sub Assistant Registrar(CS)

gk

**Note:** In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Additional Chief Secretary to Government,  
State of Tamilnadu,  
Home, Prohibition and Excise Department,  
Fort St. George,  
Chennai - 600 009.
- 2.The District Collector and District Magistrate,  
O/o.The District Collector and District Magistrate,  
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- 3.The Inspector of Police,  
Manamadurai Police Station,  
Sivagangai District.
- 4.The Superintendent of Prison,  
Central Prison,  
Madurai.
- 5.The Joint Secretary to Government of Ramil Nadu,  
Public (Law & Order),  
Fort Saint George,  
Chennai-9.
- 6.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

H.C.P (MD) No.82 of 2020  
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