



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

and

THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

H.C.P. (MD) No.511 of 2020

WEB COPY

Kavitha

... Petitioner/mother of the detenu

-vs-

1.State represented by

The Commissioner of Police,
Madurai City, Madurai.

2.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai -9.

3.The Superintendent,
Central Prison, Madurai.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of habeas corpus, calling for the records from the first respondent in 01/BCDFGISSSV/2020 dated 09/01/2020 by setting aside the said order of detention passed by the first respondent and setting the detenu G.Balakumar, S/o.Ganesan, aged about 19 years at liberty now detained in the Central Prison, Madurai.

For Petitioner : Mr.N.Mariappan
For Respondents : Mr.V.Neelakandan
Additional Public Prosecutor

O R D E R

[Order of the Court was made by K.KALYANASUNDARAM, J.]

This Habeas Corpus Petition has been filed to set aside the detention order passed by the second respondent dated 09.01.2020 in 01/BCDFGISSSV/2020, wherein the petitioner's son has been detained branding him as 'Goonda'.

2.Mr.N.Mariappan, learned counsel for the petitioner would argue that though the petitioner has raised several grounds to assail the detention order passed by the second respondent, which is impugned in this Habeas Corpus Petition, he confined his argument on the ground of lack of application of mind on the part of the detaining authority. It is the submission of the learned counsel for the petitioner that there are totally 14 accused in the ground case and the page Nos.109, 111 and 113 of the booklet would show that



there is nothing on record to prove that the remand was extended in respect of the detenu and hence, the detention order is liable to be set aside.

3.Per contra, Mr.V.Neelakandan, learned Additional Public Prosecutor while reiterating the counter filed by the second respondent, would submit that the detention order was rightly passed by the second respondent on the basis of the cogent and relevant materials furnished by the sponsoring authority. It is the submission of the learned Additional Public Prosecutor that there is no illegality or irregularity in the detention order warranting interference of this Court and prayed for dismissal of this petition.

4.In the matter on hand, a perusal of the booklet served on the detenu at page Nos.109, 111 and 113 would indicate that there are totally 14 accused in Crime No.114 of 2019 on the file of the Inspector of Police, K.Pudur Police Station. But except the first accused, the detenu in this case, the other accused were produced before the learned Judicial Magistrate No.VI, Madurai on 06.09.2019 and their remand were extended upto 20.09.2019 and on 20.09.2019 also A.2 to R.14 were produced and their remand were extending upto 04.10.2019 and on 04.10.2019, except the detenu, other accused were produced and their remand were extended through video conferencing. As rightly pointed out by the learned counsel for the petitioner, we do not find any material in the booklet to show that the remand of the detenu was extended between 06.09.2019 and 04.10.2019. This shows lack of application of mind of the detaining authority. Therefore, we are of the opinion that the order impugned in this Habeas Corpus Petition is liable to be set aside.

5.Accordingly, the order of detention passed by the second respondent, in 01/BCDFGISSSV/2020, dated 19.01.2020, is set aside and the Habeas Corpus Petition is allowed. Consequently, the detenu, namely, G.Balakumar, S/o.Ganesan, male, aged about 19 years, who is detained in Central Prison, Madurai, is directed to be released forthwith unless his presence or custody or detention is required in connection with any other case.

Sd/-

Assistant Registrar (C.O)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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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 Commissioner of Police,
Madurai City, Madurai.
2. The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai -9.
3. The Superintendent,
Central Prison, Madurai.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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SJ(CO)
CS(08.10.2020) 3P 5C