



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE **T.RAJA**
and

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

H.C.P. (MD) No.599 of 2019

Santhanamarimuthu @ Kumar
@ Kokkikumar

... Petitioner

versus

1. State of Tamil Nadu,
Rep. by the Principal Secretary to
Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 600 009.

2. The District Collector and District Magistrate,
Tirunelveli District,
Tirunelveli.

3. The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli.

... Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India, for the issuance of writ of Habeas Corpus, to call for the records connected with the detention order passed in M.H.S.Confdl No.45/2019 dated 24.06.2019 on the file of the 2nd respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu, namely, Santhanamarimuthu @ Kumar @ Kokkikumar, aged about 20 years, S/o. Petchimuthu, now detained at Central Prison, Palayamkottai, before this Court and set him at liberty forthwith.

For Petitioner : M/s.N.Pragalathan

For Respondents : Mr.K.Dinesh Babu,
Additional Public Prosecutor

**ORDER**

[Order of the Court was delivered by **T.RAJA, J.**]

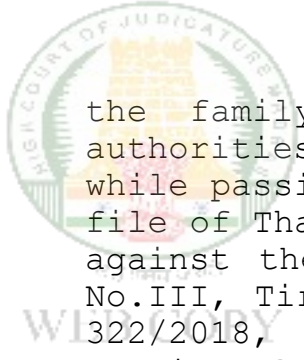
The petitioner is the detenu viz., Santhanamarimuthu @ Kumar @ Kokkikumar, aged about 20 years. The detenu has been detained, as per the order of the second respondent, dated 30.07.2019, under Section 2(f) of the Tamil Nadu Act 14 of 1982, branding him as "GOONDA". Challenging the same, the petitioner/detenu is before this Court in this Habeas Corpus Petition.

2. A perusal of the Grounds of Detention dated 24.06.2019, passed by the 2nd respondent herein, would disclose among other things that the detenu, viz., Santhanamarimuthu @ Kumar @ Kokkikumar came to the adverse notice in the following cases:-

Sl . No .	Name of the Police Station and Crime No.	Section of Law
1.	Thalaiyuthu Police Station Cr.No.3/2018	U/s. 379 IPC
2.	Thalaiyuthu Police Station Cr.No.321/2018	U/s. 379 IPC
3.	Thalaiyuthu Police Station Cr.No.322/2018	U/s. 379 IPC
4.	Thalaiyuthu Police Station Cr.No.337/2018	U/s. 379 IPC
5.	Seevalaperi Police Station Cr.No.97/2019	U/s. 397 IPC

It is further stated in the grounds of detention that the detenu was involved in a case for the commission of offences under Sections 294(b), 387, 506(ii) I.P.C. in Gangaikondan Police Station in Crime No.95 of 2019 (ground case). The detenu was arrested on 31.05.2019 and produced before the Court of Judicial Magistrate No.III, Tirunelveli, and remanded to Judicial custody. The detaining authority on being satisfied with the materials placed by the sponsoring authority that the activities of the detenu are prejudicial to the maintenance of public order, clamped the order of detention and making a challenge to the same, the present Habeas Corpus Petition has been filed by the petitioner.

3. Mr.N.Pragalathan, learned counsel appearing for the petitioner made his submissions on three fold, firstly, the arrest information with regard to the 5th adverse case was not intimated to

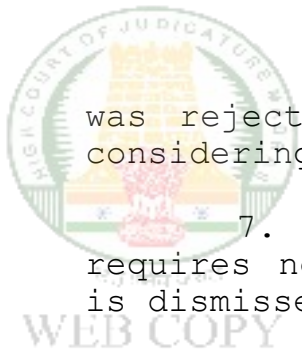


the family members, but, it was intimated only to the jail authorities. Secondly, it is submitted that the second respondent, while passing the detention order, cited that in Cr.No.3/2018 on the file of Thalaisyuthu Police Station, as there was no prima facie case against the detenu, he was granted bail by the Judicial Magistrate No.III, Tirunelveli and he was also granted bail in Cr.No.321/2018, 322/2018, 337/2018 and 97/2019 and passed the detention order stating that in a similar case (ground case) bail has been granted to the co-accuse, namely, Abdul Rahman, there is a real possibility for the detenu coming out on bail, but, the similar case cited by the second respondent cannot be equated as similar to the case of the petitioner for the reason that there was no any adverse case against the co-accused, but, in the present case, there are five adverse cases registered against the detenu, which reflects the non-application of mine of the second respondent. Thirdly, it is submitted that the representation dated 02.07.2019 was not even considered and no order has been passed. Challenging the correctness of the impugned detention order also vitiated the impugned detention. Therefore, the petition be allowed he pleaded.

4. Mr.K.Dinesh Babu, learned Additional Public Prosecutor appearing for the respondents answered all three arguments advanced before us by the learned counsel appearing for the petitioner, stating that the detenu is a habitual offender that could be easily seen from five adverse cases faced by him registered by the respondent Police, which is being faced by the detenu. When four adverse cases are repeatedly registered against him for the offence under Section 379 and 5th adverse case was also registered for the offence of 397 IPC, based on the complaint and he was also nabbed for the said case. Therefore, the contentions made by the learned counsel for the petitioner that the second respondent has wrongly cited a similar case is wholly unsustainable. The learned Additional Public Prosecutor further submitted that the representation given by the petitioner was considered and the same was rejected on 07.07.2019.

5. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor.

6. From the perusal of the impugned detention order, it is seen that four adverse cases are registered against the detenu for the offence under Section 379 IPC and 5th adverse case is registered for the offence under Section 397 IPC. Therefor, it is not open the petitioner to canvass that there was no subjective satisfaction on the part of the second respondent. Furthermore, we do not find any merits on the contention that the arrest memo with regard to 5th adverse case was not intimated to the family members of the detenu, the reason being that the arrest information of the detenu in respect of the ground case has been properly given to the family members of the detenu. Furthermore, the representation given by the petitioner dated 02.07.2019 was properly considered and the same



was rejected on 07.07.2019 and therefore, there was no delay in considering the said representation.

7. For the above reasons, the impugned detention order requires no interference. Accordingly, the Habeas Corpus Petition is dismissed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To

1. The Principal Secretary to
Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 600 009.
 2. The District Collector and District Magistrate,
Tirunelveli District,
Tirunelveli.
 3. The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli.
 4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
- +1 CC to M/s.N.PRAGALATHAN, Advocate (SR-6627[F] dated 17/02/2020)

H.C.P. (MD) No.599 of 2019
13.02.2020

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