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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

and

THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

H.C.P. (MD) No.571 of 2020

Priya

... Petitioner/Sister of the detenu

-vs-

1.The Additional Chief Secretary to the Government
Home Prohibition and Excise Department
Chennai-9

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

3.The Superintendent
Central Prison
Madurai

4.The Inspector of Police
Ammaiyanaickenur Police Station
Dindigul District.

... Respondents

PRAYER : Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus calling for the entire records pertaining to the order of detention passed by the second respondent vide his proceedings in Detention Order No.37/2020, dated 27.06.2020 and quash the same and consequently, set the detenu Senthilkumar, son of Pitchaimuthu, male, aged 36 years, who is presently confined at Central Prison, Madurai, at liberty.

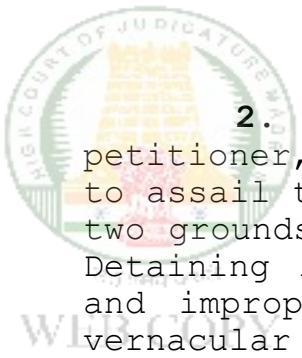
For Petitioner : Mr.M.Pitchai Muthu

For Respondents : Mr.K.Dinesh Babu
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 by the sister of the detenu, namely, Senthilkumar, son of Pitchaimuthu, male, aged 36 years, challenging the detention order No.37/2020, dated 27.06.2020, passed by the second respondent, branding him as "Goonda" as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982.



2. Mr.M.Pitchai Muthu, learned counsel appearing for the petitioner, would argue that though several grounds have been raised to assail the impugned detention order, he is entitled to succeed on two grounds, namely, lack of application of mind on the part of the Detaining Authority while arriving at the subjective satisfaction and improper translation of the impugned detention order in the vernacular language.

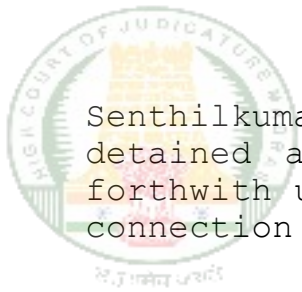
3. Mr.K.Dinesh Babu, learned Additional Public Prosecutor, on instructions, submitted that the Detaining Authority taking into consideration the gravity of the offence committed by the detenu and on being satisfied with the materials produced by the Sponsoring Authority, has rightly passed the detention order branding him as Goonda and there is no illegality or infirmity in the detention order and hence, prayed for dismissal of the habeas corpus petition.

4. Heard both sides and perused the materials available on record.

5. In the instant case, the detention order came to be passed on the basis of the incident that took place on 17.05.2020 and a criminal case in this regard was registered on the file of Ammaiyaickenur Police Station Crime No.319 of 2020 under Sections 294(b), 324 and 307 I.P.C. and altered into one under Section 302 I.P.C. However, in Paragraph 4 of the impugned detention order, it has been mentioned that the detenu is committing crimes continuously and also acting in a manner prejudicial to the maintenance of public order. When the detenu is involved in only one criminal case, referring him as a habitual offender would show that there is lack of application of mind on the part of the Detaining Authority, while reaching the subjective satisfaction. Therefore, this Court finds force in the contention of the learned counsel appearing for the petitioner.

6. Further, in Paragraph No.5 of the translated copy of the impugned detention order, it is stated that the detenu has filed Cr.M.P.No.189 of 2020 before the Principal and Sessions Court, Dindigul, seeking bail in Crime No.319 of 2020, on the file of Ammaiyaickenur Police Station. But, in the later part of the same paragraph, after referring the similar case particulars, it has been wrongly translated by the Detaining Authority to the effect that the detenu is likely to be released in two other cases registered against him by the same Court or by the Higher Court, which shows improper translation on the part of the Detaining Authority. Hence, in our considered view, on these two grounds, the detention order is liable to be set aside.

7. In fine, the Habeas Corpus Petition is allowed. The detention order No.37/2020, dated 27.06.2020, passed by the second respondent, is set aside. Consequently, the detenu, namely,



Senthilkumar, son of Pitchaimuthu, male, aged 36 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.

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Sd/-

Assistant Registrar (CO)

// 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 Additional Chief Secretary to the Government,
Home Prohibition and Excise Department,
Chennai-9.
- 2.The Joint Secretary to Government,
Public(Law & Order)Department,
Fort St.George,Chennai-9.
- 3.The District Magistrate and District Collector,
Dindigul District, Dindigul.
- 4.The Superintendent,
Central Prison,
Madurai.
- 5.The Inspector of Police,
Ammayanaickenur Police Station,
Dindigul District.
- 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

H.C.P. (MD) No.571 of 2020
03.12.2020

NA (CO)

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