



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.12.2020

CORAM:

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**THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI**

H.C.P. (MD) No.628 of 2020

Sirajdeen

... Petitioner

-vs-

1.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St. George,
Chennai - 600 009.

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

3.The Inspector of Police,
Aranthangi Police Station,
Pudukkottai District.

4.The Superintendent of Prison,
Central Prison,
Trichy.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of habeas corpus calling for the records pertaining to the order of detention passed by the second respondent in his proceedings P.D.O.No.67/2020 dated 04.08.2020 and quash the same as illegal and produce the detenu, namely, Sharbudeen, S/o Sirajdeen, aged about 28 years, now he is confined in Central Prison, Trichy before this Court and set him at liberty.

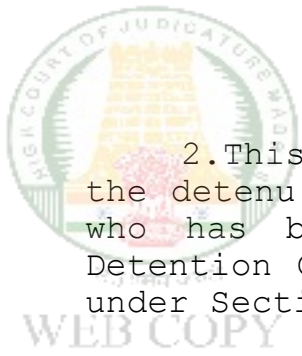
For Petitioner: Mr.T.Leninkumar

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

O R D E R

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

Heard Mr.T.Leninkumar, learned counsel for the petitioner and Mr.K.Dinesh Babu, learned Additional Public Prosecutor appearing for the respondents and perused the materials available on records.



2.This habeas corpus petition has been filed by the father of the detenu namely, Sharbudeen, S/o Sirajdeen, aged about 28 years, who has been branded as "Goonda" by the second respondent in Detention Order in P.D.No.67/2020 dated 04.08.2020, as contemplated under Section 2(f) of the Tamil Nadu Act 14 of 1982.

3.The learned counsel for the petitioner would urge that though several grounds have been raised to assail the order of detention, the petitioner is entitled to succeed on the sole ground of non-application of mind on the part of the detaining authority for passing the detention order.

4.Per contra, the learned Additional Public Prosecutor appearing for the respondents, on instructions, would argue that the second respondent has rightly passed the detention order taking note of the gravity of the offence and the act of the detenu affecting the public order. He would further submit that the detention order has been passed only to prevent the detenu from indulging in similar offence in future, which would prejudice to the maintenance of the public order and hence, there is no infirmity or irregularity in the order of detention passed by the second respondent. Hence, he prayed for dismissal of the Habeas Corpus Petition.

5.We have heard the rival submissions and perused the materials available on records.

6.Perusal of the impugned detention order, dated 04.08.2020, would reveal that in para 3 of the detention order, the detaining authority has extracted the affidavit furnished by the sponsoring authority, which shows lack of application of mind of the detaining authority while reaching the subjective satisfaction. Therefore, we find force in the submission of the learned counsel for the petitioner.

7.In fine, the order of detention passed by the second respondent, in No.P.D.O.No.67/2020 dated 04.08.2020 is set aside and the Habeas Corpus Petition is allowed. Consequently, the detenu, namely, Sharbudeen, son of Sirajdeen, aged about 28 years, now detained at Central Prison, Trichy is directed to be released forthwith unless his presence or custody or detention is required in connection with any other case.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



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 Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St. George,
Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Pudukkottai District,
Pudukkottai.
- 3.The Inspector of Police,
Aranthangi Police Station,
Pudukkottai District.
- 4.The Superintendent of Prison,
Central Prison,
Trichy.
- 5.The Joint Secretary to Government,
Public (Law & Order) Department,
Fort Saint George, Chennai-9.
- 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

H.C.P. (MD) No.628 of 2020

23.12.2020

SS (CO)

NR (19/01/2020) 3P : 7C