



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.01.2020

CORAM:

THE HONOURABLE MR.JUSTICE T.RAJA

AND

THE HONOURABLE MR. JUSTICE B.PUGALENDHI

H.C.P. (MD)No.676 of 2019

Prabavathi

: Petitioner

Vs.

1.The Secretary to Government
Government of Tamil Nadu
Home, Excise, Prohibition and Excise IX
Secretariat, George Fort,
Chennai

2.The Commissioner of Police,
Madurai City
Madurai.

3.The Superintendent of Prison
Madurai Central Prison,
Madurai District

: Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus, to call for the records on the file of the 2nd respondent in 37/BCDFGISSSV/2019 dated 04.07.2019 and set aside the order of detention passed therein dated 04.07.2019 direct the respondents to produce the detenu by name Sathishkumar, Male, aged 40 years, before this Court, now detained at Central Prison, Madurai and set him at liberty forthwith.

For Petitioner : Mr.J.William Christopher

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

ORDER

(Order of the Court was made by T.RAJA, J.)

The petitioner is the wife of the detenu viz., Sathishkumar, S/o.Chandran, aged about 40 years. The detenu has been detained, as per the order of the second respondent, dated 04.07.2019, under Section 3(1) of the Tamil Nadu Act 14 of 1982, branding him as



"GOONDA". Challenging the same, the petitioner is before this Court in this Habeas Corpus Petition.

2. We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents. We have also perused the records carefully.

3. The Sponsoring Authority had recommended for the detention of the detenu under Act 14 of 1982 on a solitary case registered against the detenu in Crime No. 202 of 2019 for offences under Sections 147, 148, 294(b), 341, 302, 506(ii) IPC altered into 120(b), 147, 148, 294(b), 341, 302, 506(II) IPC and 3(2)(V) of SC/ST Act and the detenu was thereafter arrested in the said case. The Detaining Authority has branded the detenu as a 'Goonda' and has passed the Detention order, dated 04.07.2019.

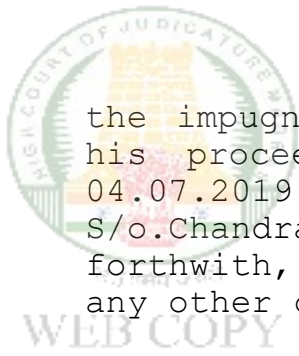
4. Learned counsel for the petitioner, assailed the impugned order, inter alia, on the ground that 10 accused are involved in the ground case, however, none of them were granted bail till the date of passing of the detention order. Moreover, when the detenu moved bail application on two occasions, they were rejected vide orders dated 18.06.2019 and 01.07.2019 respectively and subsequently, the detention order was passed on 04.07.2019 on a baseless and irrelevant ground that steps are being taken by the detenu to move bail application and if he is granted bail, he will indulge in future activities, which will be prejudicial to the maintenance of public order. Based on the same, the learned counsel would plead for setting aside the detention order.

5. Learned Additional Public Prosecutor would, however, oppose this Habeas Corpus Petition.

6. We have considered the above submissions.

7. In Paragraph No.4 of the order of detention, it is stated that in similar cases, bail was granted to the accused in CrI.M.P.No.488/2019 on 20.05.2019 to one Vetri Selvam by the III Additional District Judge (PCR), (FAC), Madurai and hence, there is likelihood of the detenu being released on bail by filing a bail application in the ground case. But, the reason cited by the detaining authority shows that bail was granted to similar persons in similar cases. Whereas, the similar cases referred to in the detention order is not similar to that of the ground case. Further, the bail that has been granted in the said similar case is a statutory bail under Section 167(2) of Cr.P.C. and the same cannot be compared or equated with the case of the detenu and hence the subjective satisfaction that has been arrived at by the detaining authority is baseless. On the said sole ground, the order of detention is liable to be interfered with.

<https://hcservices.courts.gov.in/hcservices> result, this Habeas Corpus Petition is allowed and



the impugned Detention Order, passed by the second respondent, in his proceedings in Detention Order in 37/BCDFGISSSV/2019 dated 04.07.2019 is quashed. The detenu, namely Sathishkumar, S/o.Chandran, aged about 40 years, is ordered to be set at liberty forthwith, if he is not required for detention in connection with any other case.

Sd/-

Assistant Registrar (CO)

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/ /2020

Sub Assistant Registrar(CS)

RR

To

1.The Secretary to Government
Government of Tamil Nadu
Home, Excise, Prohibition and Excise IX
Secretariat, George Fort,
Chennai

2.The Commissioner of Police,
Madurai City
Madurai.

3.The Superintendent of Prison
Madurai Central Prison,
Madurai District

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.J.WILLIAM CHRISTOPER, Advocate (SR-1828[F] dated 13/01/2020)

Order made in
H.C.P. (MD)No.676 of 2019
Dated: 10.01.2020

JMN(12.02.2020) 3P : 6C