



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.768 of 2019

Ramalakshmi

: Petitioner

Vs.

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

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

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, calling for the records on the file of the 2nd respondent in Cr.M.P.No.10/2019 (GOONDA) and set aside the order of detention passed therein dated 10.07.2019 direct the respondents to produce the detenu by name Manikandan, Male, aged 34 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., Manikandan, S/o.Pandi, aged about 34 years. The detenu has been detained, as per the order of the second respondent, dated 10.07.2019, 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. As per the grounds of detention, dated 10.07.2019, the detenu came under adverse notice in one adverse case and in the ground case, which was registered in Crime No.227/2019 on the file of the Virudhunagar Rural Police Station, who is the sponsoring authority, for offence under Sections 341, 387 and 506(II) IPC.

4. Learned counsel for the petitioner, assailed the impugned order, inter alia, on the ground that in a similar case, bail was granted to one Manikandan, in CrI.M.P.(MD) No.6925/2014 vide order dated 24.09.2014 and hence, there is a likelihood of the detenu being released on bail in the pending bail petition. He would further submit that based on the irrelevant ground that the detenu is likely to be granted bail in the pending bail petition, the present detention order is passed. 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.6 of the order of detention, it is stated that in similar cases, bail was granted to the detenu in CrI.M.P.No.6925/2019 on 24.09.2014 by the Judicial Magistrate No.II, Virudhunagar and hence, there is likelihood of the detenu being released on bail by filing a bail application in the ground case. However, the reason cited by the detaining authority is that bail was granted to detenu in similar cases. Whereas, the similar case referred to in the detention order is not similar to that of the ground case, because, 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.

8. In the result, this Habeas Corpus Petition is allowed and the impugned Detention Order, passed by the second respondent, in his proceedings in Detention Order in Cr.M.P.No.10/2019 (GOONDA) dated 10.07.2019 is quashed. The detenu, namely Manikandan, S/o. Pandi, aged about 34 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 (CS-III)

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Sub Assistant Registrar (CS)

RR

To

- 1.The Principal Secretary to Government
Government of Tamil Nadu
Home, Excise, Prohibition and Excise IX
Secretariat, George Fort,
Chennai
- 2.The Joint Secretary to Government,
Public (law and order)Department,
Secretariat, Chennai-9.
- 3.The District Magistrate and District Collector,
Virudhunagar District, Virudhunagar.
- 4.The Superintendent of Prison
Madurai Central Prison,
Madurai District
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.J.WILLIAM CHRISTOPER, Advocate (SR-1826[F] dated 13/01/2020)

Order made in
H.C.P. (MD)No.768 of 2019
Dated: 10.01.2020

KM/ (02.03.2020) 3P 7C