



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

and

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

H.C.P(MD)No.773 of 2019

R.Victoriya Rani

... Petitioner

Vs.

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

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

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

... Respondents

Prayer: Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Habeas Corpus, calling for the entire records, connected with the detention order of respondent No.2 in Detention Order No.40 of 2019 dated 08.07.2019 and quash the same and direct the respondents to produce the body or person of the detenu by name Arul @ Arul Joseph Raj, son of Soosai Arockiam, aged about 28 years, now detained at Central Prison, Madurai, before this Court and set him at liberty.

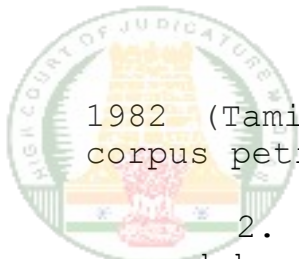
For Petitioner : Mr.J.William Christopher

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

O R D E R

(Order of the Court was made by **B.PUGALENDHI, J.**)

The mother of the detenu is the petitioner herein and challenging the impugned order of detention dated 08.07.2019 passed by the second respondent, branding her son as "Goonda" under the provisions of Section 3[1] of the Tamil Nadu Prevention of Dangerous Activities of Boot leggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum Grabbers and Video Pirates Act,



1982 (Tamil Nadu Act 14/1982), she has filed the present habeas corpus petition.

2. A perusal of the Grounds of Detention dated 08.07.2019, passed by the second respondent would show that the detenu came to the adverse notice in the following cases:-

Sl. No.	Name of the Police Station and Crime No.	Section of Law
1	Ammaiyanaickenur Police Station Cr.No.37 of 2019	379 @ 392 IPC
2	Ammaiyanaickenur Police Station Cr.No.69 of 2019	379 & 392 IPC

It is further stated in the grounds of detention that when the defacto complainant, namely, M.Sendrayal and one Sivakumar were standing in Suthanthirapuram Piviru, Kodairoad, the detenu and his associates approached them and demanded money to consume liquor. When they refused and raised an alarm, the detenu and his associates caught them and snatched a sum of Rs.1,300/- from the complainant. When the persons nearby came to rescue, they were threatened by the assailants with dire consequences and taking advantage of the situation, the detenu and his associates fled away from the scene of occurrence. Ammaiyanaickenur Police Station, based on the complaint received from the defacto complainant, registered a case in Crime No.120 of 2019 for the commission of offence under Sections 392, 397 & 506(ii) IPC (ground case).

3. The detenu was arrested on 07.06.2019, produced before the Court of Judicial Magistrate, Nilakottai and was ordered to be remanded to judicial custody. In respect of the first adverse case, the bail application filed by the detenu in Cr.M.P.No.1298 of 2019 was dismissed by the learned Judicial Magistrate, Nilakottai, on 28.06.2019. In respect of the second adverse case, the bail application filed by the detenu in Cr.M.P.No.1297 of 2019 was dismissed by the learned Judicial Magistrate, Nilakottai, on 28.06.2019. The second bail petition filed by him in this regard in Cr.M.P.No.2059 of 2019 was also dismissed by the learned Judicial Magistrate, Nilakottai, on 03.07.2019. In respect of the ground case, the learned Judicial Magistrate, Nilakottai, vide order dated 17.06.2019, dismissed the bail petition filed by the detenu in Cr.M.P.No.1296 of 2019 and the second bail petition filed in Cr.M.P.No.2061 of 2019 was also ended in dismissal vide order dated 28.06.2019. The Detaining Authority, on a perusal and consideration of the materials, has derived the subjective satisfaction that the activities of the detenu were prejudicial to the maintenance of the public peace and order and as such, branded him as a Goonda and detained him under the provisions of the Tamil Nadu Act 14 of 1982,



by clamping the impugned order of detention and challenging the legality of the same, the present Habeas Corpus Petition is filed.

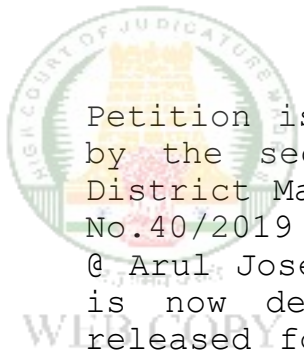
4. The learned counsel for the petitioner would submit that admittedly, the bail applications filed by the detenu in respect of the adverse cases as well as the ground case were dismissed. The Detaining Authority, by relying upon a case in Cr.M.P.No.3237 of 2015, similar to that of the ground case, where bail was granted to the accused therein by the concerned Court, has derived the subjective satisfaction that there is every possibility of the detenu coming out on bail and that if he comes out on bail, he will indulge in further activities which will be prejudicial to the maintenance of public order. It is further submitted by the learned counsel for the petitioner that the order granting bail in the above said case cannot be considered as a similar one for the reason that the concerned petitioner / accused therein was granted statutory bail under Section 167(2) Cr.P.C, and the said aspect has been completely overlooked by the detaining authority and hence, prays for quashment of the impugned order of detention.

5. Per contra, Mr.K.Dinesh Babu, learned Additional Public Prosecutor appearing for the State by drawing the attention of this Court to the averments made in the counter affidavit would submit that the Detaining Authority, after due and proper application of mind has rightly clamped the order of detention and prays for dismissal of this petition.

6. This Court has considered the rival submissions and also perused the entire materials placed before it.

7. It is seen that the detenu, besides the ground case, is having two adverse cases and the bail applications filed by him in respect of these three cases were dismissed by the concerned Courts. However, the detaining authority has taken into consideration the bail granted by the learned Judicial Magistrate, Palani, in a case in Cr.M.P.No.3237 of 2015 similar to that of the ground case and has derived the subjective satisfaction that the detenu would come out on bail and indulge in activities which are prejudicial to the maintenance of public law and order. But, as rightly pointed out by the learned Counsel for the petitioner, the similar case referred to by the detaining authority is not similar for the reason that the accused therein was granted statutory bail under Section 167(2) Cr.P.C. Even assuming that there is a real possibility of the detenu coming out on bail in respect of the ground case, the Detaining Authority has not placed any material whatsoever to show that there is a possibility of the detenu coming out on bail in respect of the two adverse cases also.

8. In the considered opinion of this Court, the above said infirmities would vitiate the impugned order of detention and the same is liable to be quashed. Accordingly, the Habeas Corpus



Petition is allowed by setting aside the Order of Detention passed by the second respondent herein, namely, District Collector and District Magistrate, Dindigul District, Dindigul, in Detention Order No.40/2019 dated 08.07.2019. Consequently, the detenu, namely, Arul @ Arul Joseph Raj, son of Soosai Arockiam, aged about 28 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 / proceedings.

Sd/-

Assistant Registrar (AS)

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/ /2020

Sub Assistant Registrar(CS)

gk

To

- 1.The Principal Secretary to Government,
State of Tamilnadu,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Dindigul District,
Dindigul.
- 3.The Superintendent of Prison,
Central Prison,
Madurai.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 5.The Joint Secretary to Government,
Public and Law Department,
Secretariat, Chennai.

H.C.P(MD)No.773 of 2019

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AP(21/05/2020) 4P 6C