



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **23.06.2020**

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

AND

THE HONOURABLE MR. JUSTICE B.PUGALENDHI

H.C.P. (MD)No.943 of 2019

Arilda :Petitioner/Mother of the detenu
Vs.

1.The Principal Secretary to the Government
Home, Prohibition and Excise Department
Secretariat, Chennai-9.

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

3.The Inspector of Police
Tuticorin North Police Station,
Tuticorin.

4.The Superintendent of Prison
Central Prison
Palayamkottai
Tirunelveli.

: Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus, to direct the respondents herein to produce the detenu Mariya Antony Pitchaiah Titus, aged about 22 years, S/o.Rosary, who has been termed as "Goonda" and who is now detained in the 4th respondent's prison and to call for the entire records relating to the detention order in H.S.(M) Confdl. No.40/2019 dated 14.08.2019 passed by the 2nd respondent herein and to set aside the same and to set the detenu at liberty.

For Petitioner : Mr.M.S.Jeyakarthick

For Respondents : Mr.R.Anandharaj

Additional Public Prosecutor

ORDER

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

The petitioner is the mother of the detenu viz., Mariya Antony Pitchaiah Titus, S/o.Rosary, aged about 22 years. The detenu has been detained, as per the order of the second respondent, dated 14.08.2019, under Section 2(f) of the Tamil Nadu Act 14 of 1982, branding him as "Goonda". Challenging the same, the petititioner 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 learned counsel for the petitioner raised the following grounds:

(i) the similar case referred to by the detaining authority is not similar in nature; and

(ii) the detention order was passed on 14.08.2019 and the booklet was served on the detenu only on 19.08.2019 and therefore, there is a delay of five days in serving the booklet to the detenu. On these two grounds, he contended that the detention order is liable to be set aside.

4. The learned Additional Public Prosecutor, would however submit that apart from the ground case and one adverse case, the detenu was involved in ten previous cases. He would further submit that there is a delay of only four days in considering the representation of the petitioner and hence, the detention order is liable to be dismissed.

5. We have considered the above submissions.

6. As regards the first ground that has been raised by the learned counsel for the petitioner that the similar case that has been referred to in the detention order is not similar to that of the ground case, the detaining authority is expected to arrive at a subjective satisfaction to the effect that the similar case is also under the similar offence. In this case, the detaining authority rightly referred a similar case of similar offence.

7. As far as the delay of five days in serving the booklet is concerned, no doubt, the detention order was passed on 14.08.2019 and the booklet was served on the detenu only on 19.08.2019. As per Section 8 of the Act 14 of 1982, the detaining authority not later than five days from the date of detention, serve the detenu the grounds of detention. As per the said Act, one day should be excluded. In the present case, even after excluding the said one day, it is seen that the booklet has been served within five days and hence, no interference is warranted.

8. In view of the above, the Habeas Corpus Petition fails and the same is dismissed.

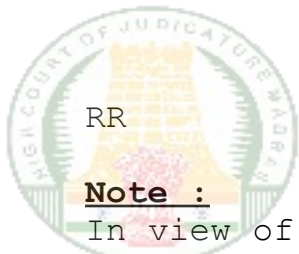
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Assistant Registrar (crl.side)

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/ /2020

Sub Assistant Registrar(CS)



RR

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 the Government
Home, Prohibition and Excise Department
Secretariat, Chennai-9.
- 2.The District Collector and District Magistrate
Tuticorin District,Tuticorin.
- 3.The Inspector of Police
Tuticorin North Police Station, Tuticorin.
- 4.The Superintendent of Prison
Central Prison, Palayamkottai, Tirunelveli.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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