



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **19.03.2020**

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

AND

THE HONOURABLE MR. JUSTICE B.PUGALENDHI

H.C.P. (MD) No.944 of 2019

A.Vellaisamy : Petitioner

Vs.

1.State of Tamil Nadu

Rep. by the Principal Secretary to Government
Home, Prohibition and Excise Department,
Fort St. George, Chennai-9.

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

3.The Superintendent of Prison
Central Prison, Palayamkottai
Tirunelveli 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 entire records connected with the detention order passed in H.S. (M) Confdl. no.41/2019 dated 20.08.2019 on the file of the 2nd respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu namely, the petitioner's son Manickaraj, aged about 33 years, S/o.Vellaisamy, now detained at Central Prison, Palayamkottai, before this Court and set him at liberty forthwith.

For Petitioner

: Mr.N.Pragalathan

For Respondents

: Mr.K.Dinesh Babu

Additional Public Prosecutor



ORDER

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

The petitioner is the father of the detenu viz., Manickaraj S/o.Vellaisamy, aged about 33 years. The detenu has been detained, as per the order of the second respondent, dated 20.08.2019 under Section 2(f) of the Tamil Nadu Act 14 of 1982, branding him as "Goonda". Challenging the same, the petititioner/detenu 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.

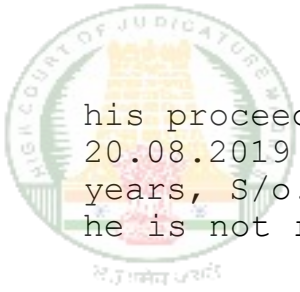
3.A perusal of the Grounds of Detention dated 20.08.2019 passed by the 2nd respondent herein, would disclose among other things that the detenu, viz., Manickaraj was involved in a case for the commission of offences under Sections 302, 294(b) and 506(II) I.P.C. in Alwarthirunagari Police Station Crime No.133 of 2019 on the basis of the complaint given by the defacto complainant viz., Jeyaprakash. The detenu surrendered on 01.08.2019 and produced before the Court of Judicial Magistrate, Srivaikundam and remanded to judicial custody. The detaining authority on being satisfied with the materials placed by the sponsoring authority that the activities of the detenu are prejudicial to the maintenance of public order, clamped the order of detention and making a challenge to the same, the present Habeas Corpus Petition has been filed by him.

4.The learned counsel for the petitioner would submit that the detaining authority has arrived at a subjective satisfaction that the accused Manickaraj is taking steps to file a bail application before the appropriate Court in the ground case in Crime No.133/2019. However, in the materials supplied along with the order of detention, there is no materials available that how the detaining authority has arrived at the subjective satisfaction that the detenu is taking steps to file bail application.

5.Heard the learned Additional Public Prosecutor for the State, who would admit that there is no material available in the booklet to substantiate the subjective satisfaction arrived at on which the detention order has been passed.

6. While arriving at a subjective satisfaction, the detaining authority has stated that the detenu is taking steps to file a bail application. However, in the materials supplied, there is no materials whatsoever to arrive at a subjective satisfaction that the detenu is taking steps to file a bail application. Hence, on this sole ground, the impugned order is liable to be quashed.

7. 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 H.S.(M) Confdl. No.41/19 dated 20.08.2019 is quashed. The detenu, namely Manickaraj, aged about 33 years, S/o.Vellaisamy, is ordered to be set at liberty forthwith, if he is not required for detention in connection with any other case.

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Sd/-

Assistant Registrar (Crl Side)

// True Copy //

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Sub Assistant Registrar(CS)

RR

To

- 1.The Principal Secretary to Government
State of Tamil Nadu
Home, Prohibition and Excise Department,
Fort St. George, Chennai-9.
- 2.The District Collector and District Magistrate
Office of the District Collector and District Magistrate
Thoothukudi District,
Thoothukudi.
- 3.The Superintendent of Prison
Palayamkottai Central Prison,
Tirunelveli District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai
- 5.The Joint Secretary to Government,
Public (Law and Order),
Fort St.George,
Chennai - 9.
- 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

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