



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.05.2020

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

and

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

H.C.P (MD) No. 969 of 2019

(Through Video Conference)

Rameshkumar

... Petitioner

Vs.

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

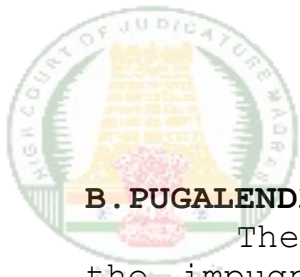
2.The District Collector and District Magistrate,
Office of the Collector and District Magistrate,
Theni District,
Theni.

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

... 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.10/2019 dated 14.09.2019 and quash the same and direct the respondents to produce the body or person of the detenu by name Rameshkumar, son of Alagudurai, aged about 28 years, now detained as "GOONDA" at Central Prison, Madurai, before this Court and set him at liberty.

For Petitioner	: Mr.R.Alagumani
For Respondents	: Mr.R.Anandaraj
	Additional Public Prosecutor



O R D E R

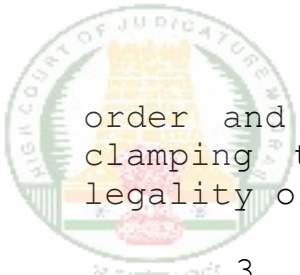
B.PUGALENDHI, J.,

The detenu himself is the petitioner herein and challenging the impugned order of detention dated 14.09.2019 passed by the second respondent, branding him 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), he has filed the present habeas corpus petition.

2. A perusal of the Grounds of Detention dated 14.09.2019, 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	Gandamanur Police Station Cr.No.314 of 2015	294(b), 323, 506(i) IPC altered into 294(b), 325, 506 (i) IPC
2	Gandamanur Police Station Cr.No.139 of 2019	294(b), 323, 355, 506(i) IPC and Section 4 of TNPHW Act

It is further stated in the grounds of detention that on 20.08.2019, in the early morning when the defacto complainant, namely, Veeramani was having Tea at Thangaraj's Tea stall, the detenu approached him and demanded money for consuming liquor. When the complainant refused, the detenu threatened him with dire consequences and the persons nearby came to rescue, the detenu fled away from the scene of occurrence. Thereafter, the complainant went to Theni Government Medical College Hospital to see the new born baby of his sister's daughter and returned to his village. On the same day, at about 02.30 p.m., when the complainant was standing in front of the Library, the detenu came on a Hero Honda Splendor motorcycle and dashed him with an intention to murder, due to which, the complainant sustained several injuries. On seeing this, the complainant's relative came to the rescue and shouted at the accused and he escaped from the place of occurrence. Gandamanur Police Station, based on the complaint received from the defacto complainant, registered a case in Crime No.174 of 2019 for the commission of offence under Sections 294 (b), 324, 506(i), 307 IPC. The detenu was arrested on 21.08.2019, produced before the Court of Judicial Magistrate, Aundipatti and was ordered to be remanded to judicial custody. 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 Goonda and detained him, by clamping the impugned order of detention and challenging the legality of the same, the present Habeas Corpus Petition is filed.

3. The learned counsel for the petitioner has drawn the attention of this Court to paragraph No.5 of the grounds of detention and would submit that admittedly, the detenu did not file any bail applications so far, whereas, the Detaining Authority has observed that there is a real possibility of the detenu coming out on bail by filing bail applications and indulge in such activities which are prejudicial to the maintenance of public order and peace, but, no materials, whatsoever, have been placed on record to show that the detenu is taking steps to file bail applications. Moreover, the Sponsoring Authority has not produced any similar case particulars, where bail was granted to the accused therein by the concerned Courts. In the absence of any such documents, the subjective satisfaction derived by the Detaining Authority is vitiated and therefore, he prays for quashment of the impugned order of detention.

4. Per contra, Mr.R.Anandaraj, 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.

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

6. As rightly pointed out by the learned counsel for the petitioner, admittedly the detenu did not file any bail applications so far and the Detaining Authority has merely stated that there is a possibility of the detenu coming out on bail by filing such applications, but, to derive such a subjective satisfaction, no material or whatsoever has been produced by the Sponsoring Authority. In the absence of any such positive material as to the attempts being made for filing bail applications or the similar case particulars where bail was granted, the impugned order of detention is liable to be quashed, as the Detaining Authority has not applied his mind while deriving the subjective satisfaction.

7. 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, Theni District, Theni, in Detention Order No.10/2019 dated 14.09.2019. Consequently, the detenu, namely, Rameshkumar, son of Alagudurai, 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(AD-II)

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/ /2020

Sub Assistant Registrar(CS)

gk

To

- 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,
Theni District,
Theni.
- 3.The Superintendent of Prison,
Central Prison,
Madurai.
4. The Joint Secretary to Government,
Public (Law & order), Fort St. George,
Chennai - 9.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

H.C.P (MD) No. 969 of 2019

22.05.2020

AVS (CO)

TR(08.06.2020) 4P 6C