



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.06.2020

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

AND

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

H.C.P. (MD)No.1030 of 2019

Dinesh

... Petitioner

Vs.

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

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

3.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli.

... Respondents

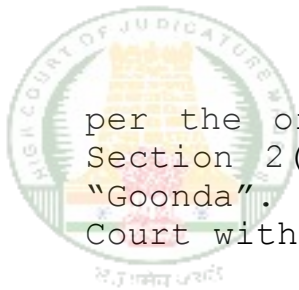
Prayer : Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Habeas Corpus to call for the entire records connected with the detention order passed in H.S.(M)Confdl.No.45/2019, dated 16.09.2019 on the file of the second respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu, namely Dinesh, aged about 20 years, S/o.Thanga Muniyasamy, now detained at Central Prison, Palayamkottai, before this Court and set him at liberty forthwith.

For Petitioner	:	Mr.N.Pragalathan
For Respondents	:	Mr.R.Anandharaj, Additional Public Prosecutor

ORDER

[Order of the Court was made by **P.N.PRAKASH, J.**]

The petitioner is the detenu viz., Dinesh, S/o.Thanga Muniyasamy, aged about 20 years. The detenu has been detained, as



per the order of the second respondent, dated 16.09.2019, under Section 2(f) of the Tamil Nadu Act 14 of 1982, branding him as "Goonda". Challenging the same, the petitioner is before this Court with this Habeas Corpus Petition.

2. We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents.

3. In Paragraph No.7 of the grounds of detention, the Detaining Authority has stated as follows:

"I am aware that the accused Dinesh was arrested on 25.08.19 and produced before the Court of Judicial Magistrate No.III, Thoothukudi on the same day and remanded to judicial custody upto 06.09.19 and lodged District Jail, Thoothukudi at Perurani. Further his remand was extended upto 20.09.19. I am aware that accused Dinesh has tried to file bail petition before the appropriate Court in the ground case registered in Thoothukudi North PS. Cr.No.340/19 u/s 341, 294(b), 387, 307, 506(ii) IPC. I am also aware that in a similar case registered in Thoothukudi Thalamuthunagar Police Station Cr.No.404/2016 U/s 341, 294(b), 387, 307, 506(ii) IPC bail was granted by the Thoothukudi Principal Sessions Court to one Mohamad Salim @ Salim in Cr.M.P.No.2239/2016 dated 22.08.16. I therefore infer that there is a real possibility of his coming out on bail in the above case by filing bail petition in the appropriate courts, since bail are granted by Courts in such case."

4. From the above, it is seen that the detenu has not filed any bail application. However, there is no material before the Detaining Authority to come to an inference that the detenu is likely to file a bail application. Under normal circumstances, we may not consider this as a serious ground for quashing the detention order. In this case, the detention order is dated 16.09.2019 and it is almost one year. Considering the present COVID-19 pandemic situation and the consequent need for decongestion of prisoners, this Court is inclined to quash the detention order.

5. In the result, this Habeas Corpus Petition is allowed by setting aside the order of detention passed by the second respondent, in H.S.(M)Confdl.No.45/2019, dated 16.09.2019. Consequently, the detenu, namely, Dinesh, S/o.Thanga Muniyasamy, aged about 20 years, who is now detained at Central Prison, Palayamkottai, is directed to be released forthwith unless his



presence or custody or detention is required in connection with any other case/proceedings.

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Sd/-

Assistant Registrar ()

/ /2020

Sub Assistant Registrar(CS)

SML/RSB

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,
Thoothukudi District,
Thoothukudi.
- 3.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Order made in
H.C.P. (MD)No.1030 of 2019

Dated:
18.06.2020

KM (25.06.2020) 3P 5C