



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.07.2020

CORAM

**THE HONOURABLE MR.JUSTICE P.N.PRAKASH
AND
THE HONOURABLE MR.JUSTICE B.PUGALENDHI**

H.C.P. (MD)No.1071 of 2019

Chellammal

... Petitioner

Vs.

1.State of Tamil Nadu, rep. by
The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-600 009.

2.The District Magistrate and District Collector,
O/o.The District Magistrate and District Collector,
Karur District,
Karur.

3.The Superintendent,
Central Prison,
Tiruchirappalli.

... 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 in detention order passed in Cr.M.P.No.21/2019, dated 09.10.2019 on the file of the second respondent herein and set aside the same as illegal and direct the respondents to produce the body or person of the petitioner's son, namely Guna @ Gunasekaran, S/o.Poorasamy, male, aged 39 years, who is detained in Central Prison, Tiruchirappalli, before this Court and set him at liberty.

For Petitioner : Mr.K.A.S.Prabhu

For Respondents: Mr.K.Dinesh Babu,

Additional Public Prosecutor

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ORDER

[Order of the Court was made by **B.PUGALENDHI, J.**]

The petitioner is the mother of the detenu viz., Guna @ Gunasekaran, S/o.Poorasamy, aged about 39 years. The detenu has been detained, as per the order of the second respondent, dated 09.10.2019, 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 with this Habeas Corpus Petition.

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

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3. It is seen that the detenu came to the adverse notice in Vengamedu Police Station Crime No.155 of 2018 under Section 392 IPC; Karur Town Police Station Crime No.336 of 2018 under Section 392 IPC; Aravakurichi Police Station Crime No.226 of 2019 under Section 392 IPC; Aravakurichi Police Station Crime No.251/2019 under Section 392 IPC and the ground case in Aravakurichi Police Station Crime No.272 of 2019 under Section 392 r/w 397 and 506(ii) IPC, based on which, the detention order has been clamped against the detenu. The Detaining Authority, while arriving at the subjective satisfaction for detaining the detenu, has relied upon the bail granted to an accused similarly placed as that of the detenu under Section 167(2) of the Code of Criminal Procedure and not under Section 437 or 439 of the Code of Criminal Procedure, which, in the opinion of this Court, vitiates the detention order and hence, the same is liable to be quashed.

4. In the result, this Habeas Corpus Petition is allowed by setting aside the order of detention passed by the second respondent, in Cr.M.P.No.21/2019, dated 09.10.2019. Consequently, the detenu, namely, Guna @ Gunasekaran, S/o.Poorasamy, aged about 39 years, who is now detained at Central Prison, Tiruchirappalli, 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 (Crl.Side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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.

SML/RSB



To

- 1.The Additional Chief Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-600 009.
- 2.The District Magistrate and District Collector,
O/o.The District Magistrate and District Collector,
Karur District,
Karur.
- 3.The Superintendent,
Central Prison,
Tiruchirappalli.
- 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.

Order made in
H.C.P. (MD)No.1071 of 2019

Dated:
02.07.2020

NR (09.07.2020) 3P 6C