



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **01.07.2020**

CORAM:

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

**THE HONOURABLE MR. JUSTICE B.PUGALENDHI
H.C.P. (MD)No.1207 of 2019**

Sutha

: Petitioner

Vs.

- 1.State of Tamil Nadu,
Rep. by the Principal Secretary to Government
Government of Tamil Nadu,
Home, Prohibition and Excise Department
Fort St. George, Chennai-9.
- 2.The District Magistrate and District Collector,
Dindigul District, Dindigul.
- 3.The Superintendent
Central Prison, Madurai. : 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 records pertaining to the proceeding of the 2nd respondent made in his proceedings in Detention order No.63/2019 dated 01.10.2019 and quash the same and set the petitioner's husband by name Vadivel S/o.Palanichamy, aged about 38 years at liberty from 3rd respondent.

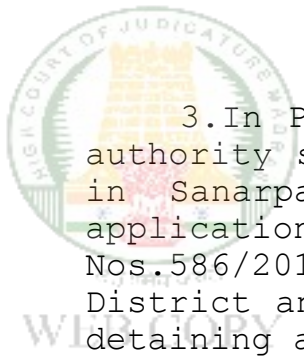
For Petitioner : Mr.M.Jegadheeshpandian
For Respondents : Mr.K.Dinesh Babu
Additional Public Prosecutor

ORDER

(Order of the Court was made by P.N.PRAKASH, J)

The petitioner is the wife of the detenu viz.,Vadivel, S/o.Palanichamy, aged about 38 years. The detenu has been detained, as per the order of the second respondent, dated 11.09.2019, 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 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.In Paragraph No.5 of the grounds of detention, the detaining authority stated that the detenu has not filed any bail application in Sanarpatti Police Station Crime No.408/2019, but his bail applications in Dindigul Town North Police Station Crime Nos.586/2019 and 588/2019 have been dismissed by the Principal District and Sessions Court, Dindigul. After having stated so, the detaining authority has stated as follows:

"Hence, I infer that there is a real possibility of his (Vadivel) coming out on bail by filing bail petition before the higher Court."

Hence, the detaining authority has not taken into consideration the fact that the detenu has not filed any bail application in Sanarpatti Police Station Crime No.408/2019 and only after it is dismissed by the lower Court, can he approach the higher Court. Hence, there is non application of mind on the part of the detaining authority.

4. 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 Detention order No.63/2019 dated 01.10.2019 is quashed. The detenu, namely Vadivel, S/o.Palanichamy, aged about 38 years, is ordered to be set at liberty forthwith, if he is not required for detention in connection with any other case.

Sd/-

Assistant Registrar (Crl.side)

// True Copy //

/ /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 Government
State of Tamil Nadu,
Home, Prohibition and Excise Department
Fort St. George, Chennai-9.



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

3.The Superintendent
Central Prison, Madurai.

4.The Joint Secretary to Government,
Public (L&O), Fort.Saint George, Chennai-9.

5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Order made in
H.C.P. (MD)No.1207 of 2019
Dated: 01.07.2020

SMA/15/07/2020/3P/6C