



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.06.2020

CORAM:

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

H.C.P. (MD) No.1247 of 2019

Selvaraj ... Petitioner/brother of detenu

-vs-

- 1.State of Tamil Nadu, rep.by
The Additional Chief Secretary to Government
Home, Prohibition and Excise Department
Fort. St.George, Chennai-9
- 2.The District Magistrate and District Collector
O/o.The District Magistrate and District Collector
Pudukkottai District
Pudukkottai
- 3.The Superintendent
Central Prison
Tiruchirappalli

... Respondents

PRAYER : Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus, calling for the entire records in detention order passed in P.D.O.No.59/2019 dated 17.09.2019 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 husband namely Kumar @ Udayakumar, son of Raman, male, aged 37 years, who is detained in Central Prison, Tiruchirappalli, before this Court and set him at liberty.

For Petitioner: Mr.K.G.Arun Kumar

For Respondents: Mr.R.Anandharaj
Additional Public Prosecutor

O R D E R

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

The petitioner is the brother of the detenu viz., Kumar @ Udayakumar, son of Raman, aged 37 years. The detenu has been



detained, as per the order of the second respondent, dated 17.09.2019, 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 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. This detention order is predicated on the ground case in Aranthangi Police Station Crime No.358 of 2019 under Sections 294 (b), 427, 506(ii) I.P.C. r/w Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002. In Paragraph No.5 of the grounds of detention, the Detaining Authority has clearly stated that the bail application filed by the detenu has been dismissed by the learned Judicial Magistrate, Aranthangi, by order dated 05.09.2019 in Cr.M.P.No.2069 of 2019, whereas, the Detaining Authority has observed that further resource to the normal criminal law will not have the desired effect of effectively preventing him from indulging in such activities, which are prejudicial to the maintenance of public peace and public order, 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 Courts concerned. In the absence of any such documents, the subjective satisfaction arrived at by the Detaining Authority is vitiated and on that ground, the detention order is liable to be quashed.

4. In the result, the Habeas Corpus Petition is allowed and the Detention Order, passed by the second respondent, in his proceedings in P.D.O.No.59/2019 dated 17.09.2019, is quashed. The detenu, namely, Kumar @ Udayakumar, son of Raman, aged 37 years, is ordered to be set at liberty forthwith, if his detention is not required in connection with any other case.

Sd/-

Assistant Registrar (AD-II)

// 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.

<https://hcservices.ecourts.gov.in/hcservices/>



- 1.The Additional Chief Secretary to Government,
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- 2.The District Magistrate and District Collector,
O/o.The District Magistrate and District Collector,
Pudukkottai District,
Pudukkottai.
- 3.The Superintendent,
Central Prison,
Tiruchirappalli.
- 4.The Joint Secretary to Government,
Public (Law & Order),
Fort Saint George,
Chennai-9.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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NR (07.07.2020) 3P 6C