



WEB COPY

H.C.P (MD) No.1378 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.05.2020

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

and

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

H.C.P (MD) No.1378 of 2019

Dhanalakshmi

... 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,
Theni District, Theni.

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

... 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.08 of 2019 dated 30.07.2019 and quash the same and direct the respondents to produce the body or person of the detenu by name Manikandan, son of Ganesan, aged about 28 years, now detained at Central Prison, Madurai, before this Court and set him at liberty.

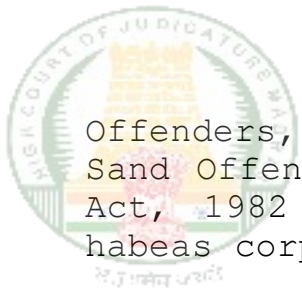
For Petitioner : Mr.R.Alagumani

For Respondents : Mr.R.Anandharaj
Additional Public Prosecutor

O R D E R

(Order of the Court was made by **B.PUGALENDHI, J.**)

The sister of the detenu is the petitioner herein and challenging the impugned order of detention dated 30.07.2019 passed by the second respondent, branding her son 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), she has filed the present habeas corpus petition.

WEB COPY

2. In the Grounds of Detention dated 30.07.2019, it is stated that the defacto complaint Sukumar resident of Compost Odai Street, Theni, on 22.06.2019 lodged a complaint before the Theni Police Sation that his sister one Santhi was married to one Ayyappan, she was living separately in Theni and she was a daily wage worker at Theni Uzhavar Santhai. On 22.06.2019 at 5.30 hours, on an information, he went to Theni Uzhavar Santhi, where he saw her sister lying dead with a rope tied in her mouth in a suspicious manner. Based on his complaint, a case was registered in Theni Police Station in Crime No.439 of 2019 under Section 174 CrPC. During the enquiry, the Section was altered into 302 IPC.

3. In this connection one Mohanraj was arrested on 25.06.2019 at 9.00am. Based on his confession statement, the detenu Manikandan was arrested on the same day at 12.45 pm. He gave a voluntary confession statement that he and his friend Mohanraj murdered Santhi on 21.06.2019 at night using a rope. Subsequently the detenu was produced before the Court of Judicial Magistrate, Theni and was ordered to be remanded to judicial custody and his remand was extended till 06.08.2019. The detenu filed a bail petition before the learned Principal and Sessions Judge, Theni in Cr.M.P.No.2074 of 2019 and the same was dismissed on 11.07.2019. 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 a Goonda and detained him under the provisions of the Tamil Nadu Act 14 of 1982, by clamping the impugned order of detention and challenging the legality of the same, the present Habeas Corpus Petition is filed.

4. The learned counsel for the petitioner would submit that admittedly, the bail application filed by the detenu was dismissed. The Detaining Authority, in paragraph No.5 of the grounds of detention has mentioned that "received a secret information that he or his relative may file bail petition in the competent court very soon. Generally bails are granted in the same Court or High Courts after a lapse of time. Hence, there is a possibility for him also coming out on bail by filing bail petition", for arriving at such the subjective satisfaction that there is every possibility of the detenu coming out on bail and that if he comes out on bail, he will indulge in further activities which will be prejudicial to the maintenance of public order. It is further submitted by the learned counsel for the



petitioner that for arriving at such a subjective satisfaction there are no materials produced by the detaining authority.

5.Per contra, Mr.Anandharaj, learned Additional Public Prosecutor appearing for the State 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.

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

7.It is seen that the detaining authority has derived the subjective satisfaction that the detenu would come out on bail and indulge in activities which are prejudicial to the maintenance of public law and order. But, as rightly pointed out by the learned Counsel for the petitioner, even assuming that there is a real possibility of the detenu coming out on bail, the Detaining Authority has not placed any material whatsoever to show that there is a possibility of the detenu coming out on bail and indulge in activities which are prejudicial to the maintenance of law and order.

8.In the considered opinion of this Court, the above said infirmities would vitiate the impugned order of detention and the same is liable to be quashed. 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.08 of 2019 dated 30.07.2019. Consequently, the detenu, namely, Manikandan, son of Ganesan, 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

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

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

H.C.P (MD) No.1378 of 2019
27.05.2020

AL(CO)
TR(24.06.2020) 4P 5C