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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

and

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

H.C.P. (MD) No.94 of 2021

K.Sudalaiselvi

...Petitioner/Sister of the detenu

-vs-

1.The State of Tamil Nadu,
represented by the Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
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 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 connected with the detention order passed in H.S (M)Confdl.No.03 of 2021, dated 2.1.2021, on the file of the second respondent herein and to quash the same and to direct the respondents to produce the detenu or body of the detenu namely, the Petitioner's brother ie., Manikadan @ Kattamani, aged about 29 years, son of Sudalaimuthu, now detained at the Central Prison, Palayamkottai before this Court and set him at liberty forthwith.

For Petitioner : Mr.N.Pragalathan

For Respondents : Mr.S.Ravi

Standing Counsel for the State Government

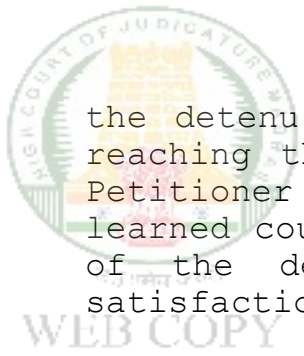
O R D E R

(Order of the Court was made by K.KALYANASUNDARAM, J.)

This habeas corpus petition has been filed by the sister of the detenu, namely, Manikadan @ Kattamani, son of Sudalaimuthu, aged about 29 years, challenging the detention order in H.S(M) Confdl.No.03 of 2021, dated 2.1.2021, passed by the second respondent, branding him as "Goonda" as contemplated under Section 2 (f) of Tamil Nadu Act 14 of 1982.

2.Mr.N.Pragalathan, learned counsel appearing for the petitioner, would submit that the grounds of detention shows that

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the detenu has not involved in any previous cases. However while reaching the subjective satisfaction, it has been stated that the Petitioner is habitually committing the crimes. According to the learned counsel, this shows the non-application of mind on the part of the detaining authority while arriving at the subjective satisfaction.

3.Per contra, Mr.S.Ravi, learned Standing Counsel appearing for the State would submit that the detenu is is involved in other cases. Though the materials have not been furnished, the fact remains that the detenu is involved in other cases and after being satisfied with the materials produced by the Sponsoring Authority, the second respondent has rightly clamped the Detention Order on the detenu and there is no illegality or infirmity in the detention order warranting interference by this Court and hence, prayed for dismissal of the habeas corpus petition.

4.Heard both sides and perused the materials available on record.

5.In the instant case, the for the occurrence took place on 4.12.2020, a case came to be registered in Crime No.114 of 2020 under Sections 452, 294(b), 302, 506(ii) of IPC and the detenu was arrested on the same day for his alleged involvement in the offence. The detention order came to be passed on 2.1.2021. Neither in the grounds of detention nor in the booklet, any material was produced for his involvement in other criminal cases. While arriving at the subjective satisfaction, the Detaining Authority has referred that the detenu is habitually committing the crimes. This Shows lack of application of mind on the part of the detaining authority while arriving at the subjective satisfaction. Hence, the detention order is liable to be set aside.

6. In fine, the Habeas Corpus Petition is allowed. The detention order in H.S(M)Confdl.No.03 of 2021, dated 2.1.2021, passed by the second respondent, is set aside. Consequently, the detenu, namely, Manikadan @ Kattamani, son of Sudalaimuthu, aged about 29 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.

Sd/-

Assistant Registrar ()

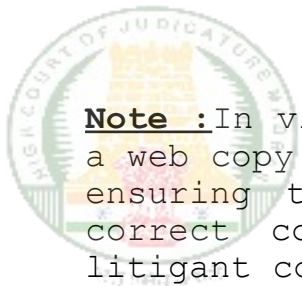
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/ /2021

Sub Assistant Registrar(CS)

vsn

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To:

- 1.The Additional Chief Secretary to Government,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-600 009.
- 2.The District Collector and District Magistrate,
Thoothukudi District,
Thoothukudi.
- 3.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli.
- 4.The Joint Secretary to Government,
Public (Law & Order) Fort St.Goerge, Chennai 600 009 The
- 5.Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

H.C.P. (MD) No.94 of 2021
19.07.2021

LR(03.08.2021) 3P 6C