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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.108 of 2021

M..Chinnathai

...Petitioner/wife 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.02 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 husband ie.,Maharajan, aged about 33 years, son of Ramarajan, now detained at the Central Prison, Palayamkottai before this Court and set him at liberty forthwith.

For Petitioner : Mr.N.Pragalathan

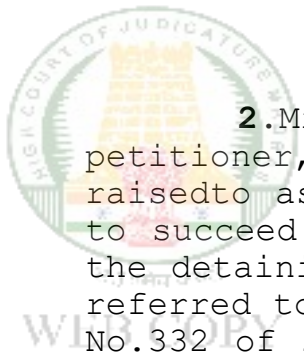
For Respondents : Mr.S.Ravi

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 wife of the detenu, namely, Maharajan, son of Ramarajan, aged about 33 years, challenging the detention order in H.S(M)Confdl.No.02 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 though several grounds have been raised to assail the order of detention, the Petitioner is entitled to succeed on the ground of non-application of mind on the part of the detaining authority. He further added that in the similar case referred to by the detaining authority, the second accused in Crime No.332 of 2016, on the file of the Inspector of Police Kovilpatti East Police Station namely, Kanakaraj was granted bail on the ground that investigation was completed and charge sheet has been filed. But in the case on hand, investigation is pending. Hence the similar case relied on by the detaining authority to arrive at the subjective satisfaction is not similar to the case of the detenu. 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 after being satisfied with the cogent and relevant 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 to the similar order. In the similar case referred to by the detaining authority, the investigation has been completed and charge sheet has been filed. But in the present case, investigation is still pending. So we are of the view that the similar case relied on by the detaining authority is not similar to the case of the detenu. 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.02 of 2021, dated 2.1.2021, passed by the second respondent, is set aside. Consequently, the detenu, namely, Maharajan, son of Ramarajan, aged about 33 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 (CO)

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Sub Assistant Registrar(CS)

vsn

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

H.C.P. (MD) No.108 of 2021
19.07.2021

LR(03.08.2021) 3P 6C