



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

and

THE HONOURABLE MR.JUSTICE G.ILANGO VAN

H.C.P. (MD) No.167 & 210 of 2021

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Jaya ... Petitioner in H.C.P. (MD)
No.167 of 2021
Parvathi ... Petitioner in H.C.P. (MD)
No.210 of 2021

-vs-

- 1.The Principal Secretary to Government
Home, Prohibition & Excise Department
Secretariat, Chennai-9
- 2.The Special Director General of Police
Law and Order, Chennai-4
- 3.The Commissioner of Police
O/o.The Commissioner of Police
Madurai
- 4.The Superintendent of Prison
Central Prison, Madurai
- 5.The Inspector of Police
Law and Order
C5 Karimedu Police Station
Madurai City

... Respondents in both H.C.Ps.

PRAYER (in H.C.P. (MD) No.167 of 2021): 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 No.68/BCDFGISSSV/2020, dated 23.11.2020, on the file of the third respondent and quash the same as illegal and direct the respondents to produce the body or person of the petitioner's son namely Gowtham, aged about 18 years, son of Chandran, now confined at Central Prison, Madurai, before this Court and set him at liberty forthwith.

PRAYER (in H.C.P. (MD) No.210 of 2021): 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 No.69/BCDFGISSSV/2020, dated 23.11.2020, on the file of the third respondent and quash the same as illegal and direct the respondents to produce the body or person of the petitioner's grandson namely Aravind @ Balaji, aged about 19 years, son of Ganesan, now confined at Central Prison, Madurai, before this



Court and set him at liberty forthwith.

For Petitioner : Mr.Niranjan S.Kumar
(in both H.C.Ps.)

For Respondents : Mr.K.Dinesh Babu
(in both H.C.Ps.) Additional Public Prosecutor

C O M M O N O R D E R

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

H.C.P.(MD) No.167 of 2021 has been filed by the mother of the detenu, namely, Gowtham, son of Chandran, aged about 18 years, challenging the detention order No.68/BCDFGISSSV/2020, dated 23.11.2020, passed by the third respondent, branding him as "Goonda" as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982.

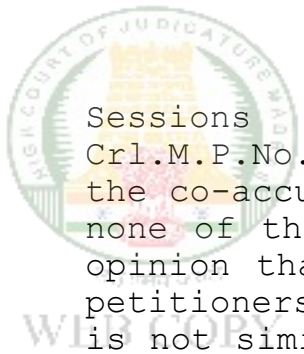
2. H.C.P.(MD) No.210 of 2021 has been filed by the grandmother of the detenu, namely, Aravind @ Balaji, son of Ganesan, aged about 19 years, challenging the detention order No.69/BCDFGISSSV/2020, dated 23.11.2020, passed by the third respondent, branding him as "Goonda" as contemplated under Section 2 (f) of Tamil Nadu Act 14 of 1982.

3. Mr.Niranjan S.Kumar, learned counsel for the petitioners, would argue that even though the petitioners have raised several grounds, he has confined his arguments only to the lack of application of mind on the part of the Detaining Authority while reaching the subjective satisfaction. It is the submission of the learned counsel for the petitioners that the similar case referred by the Detaining Authority is not similar to the case of the detenues.

4. Mr.K.Dinesh Babu, learned Additional Public Prosecutor, while reiterating the counter affidavits filed by the third respondent, submitted that after satisfying with the materials placed by the Sponsoring Authority, the Detaining Authority has passed the detention orders and there is no illegality or infirmity in the detention orders.

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

6. In the instant case, the detenues have been arrayed as accused in the ground case for the offence of murder and the case was registered on 22.08.2020 and they were secured by the Police on 24.08.2020 and their bail applications were dismissed by the learned Principal Sessions Judge, Madurai, vide Order dated 11.11.2020 in Crl.M.P.No.5097 of 2020. But, the Detaining Authority has relied on a bail order granted to an accused Sekar, by the learned Principal



Sessions Judge, Madurai, vide order dated 12.10.2018 in Crl.M.P.No.4721 of 2018, wherein bail was granted on the ground that the co-accused was also enlarged on bail. But, in the present case, none of the accused has been released on bail. So, we are of the opinion that as rightly pointed out by the learned counsel for the petitioners, the similar case relied on by the Detaining Authority is not similar to the case of the detenues herein, which shows lack of application of mind on the part of the Detaining Authority while arriving at the subjective satisfaction and on that ground, the impugned detention orders are liable to be quashed.

7. In fine,

- (i) H.C.P.(MD) No.167 of 2021 is allowed. The detention order No.68/BCDFGISSSV/2020, dated 23.11.2020, passed by the third respondent, is set aside. Consequently, the detenu, namely, Gowtham, son of Chandran, aged about 18 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.
- (ii) H.C.P.(MD) No.210 of 2021 is allowed. The detention order No.69/BCDFGISSSV/2020, dated 23.11.2020, passed by the third respondent, is set aside. Consequently, the detenu, namely, Aravind @ Balaji, son of Ganesan, aged about 19 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.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2021

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.

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To:

1.The Principal Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat, Chennai-9.

2.The Special Director General of Police,
Law and Order, Chennai-4.

3.The Commissioner of Police,
O/o.The Commissioner of Police,
Madurai.

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

5. The Joint Secretary to Government,
Public (Law & Order)
Fort St.Goerge,
Chennai 600 009

6.The Inspector of Police,
Law and Order,
C5 Karimedu Police Station,
Madurai City.

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

+2 CC to M/s.NIRANJAN.S.KUMAR, Advocate (SR-11456[F],11455 dated
16/03/2021)

H.C.P.(MD) No.167 & 210 of 2021
15.03.2021

PM(CO)
KB(25.03.2021) 4P 10C