



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

and

THE HONOURABLE MR.JUSTICE G.ILANGOVAN

H.C.P. (MD) No.175 of 2021

Paramasivam

... Petitioner

-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

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of habeas corpus calling for the entire records connected with the detention order in No.67/BCDFGISSSV/2020 dated 23.11.2020 on the file of the 3rd respondent and quash the same as illegal and direct the respondents to produce the body or person of the petitioner's son namely, Sankara Manikandan @ Ponnangan aged about 23 years son of Paramasivam, now confined at Central Prison, Madurai before this Court and set him at liberty forthwith.

For Petitioner : Mr.K.Navaneetharaja

For Respondents : Mr.K.Dinesh Babu

Additional Public Prosecutor



O R D E R

[Order of the Court was made by K.KALYANASUNDARAM, J.]

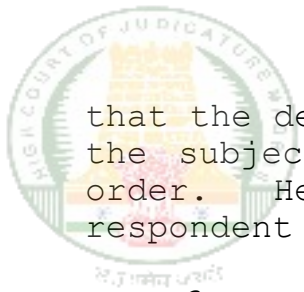
This Habeas Corpus Petition has been filed by the father of the detenu challenging the detention order passed by the third respondent in No.67/BCDFGISSSV/2020, dated 23.11.2020, wherein the detenu, namely, Sankara Manikandan @ Ponnangan aged about 23 years son of Paramasivam, has been branded as 'Goonda' as contemplated under Section 2(f) of the Tamil Nadu Act 14 of 1982.

2.Mr.K.Navaneetharaja, learned counsel for the petitioner would argue that though several grounds have been raised to challenge the detention order, he confines his argument only with regard to the non-application of mind on the part of the detaining authority in passing the detention order impugned in this habeas corpus petition. According to the learned counsel, the detenu was arrested on 24.08.2020 and the detention order came to be passed on 23.11.2020 i.e., after lapse of 89 days, but the detaining authority has referred a similar case to arrive at subjective satisfaction. In that case, the accused in Crime No.396 of 2018 on the file of the Inspector of Police, Keeraithurai, was arrested on 08.06.2018 and he had been in judicial custody for about 127 days. In that case, the accused was granted bail mainly on the ground that charge sheet was already laid and co-accused was enlarged on bail, but in the case on hand, investigation is still pending and no other co-accused has been released on bail, which shows non-application of mind on the part of the detaining authority while passing the detention order.

3.Per contra, Mr.K.Dinesh Babu, learned Additional Public Prosecutor submitted that the Detaining Authority has arrived at the subjective satisfaction based on the cogent and relevant materials placed by the Sponsoring Authority and there is no infirmity or irregularity in the impugned order of detention passed by the second respondent and hence, prayed for dismissal of the habeas corpus petition.

4.Heard the rival submissions of both the counsels and perused the materials available on records.

5.In the matter on hand, the detenu is the one of the accused in Crime No.1271 of 2020 on the file of the Karimedu Police Station, Madurai City and he was arrested in connection with the case on 24.08.2020 and when he was in judicial custody, the detention order came to be passed on 23.11.2020. Admittedly, it is also seen that there are totally 5 accused in this case and one among them is juvenile and other four accused have been detained under Act 14 of 1982. Further, in this case, investigation is pending, but the detaining authority relied on the case referred above, in which, the investigation was completed and charge sheet was also filed and one of the accused was also granted bail. So, we are of the opinion



that the detaining authority has not applied his mind while reaching the subjective satisfaction at the time of passing the detention order. Hence, the impugned detention order passed by the third respondent is liable to be set aside.

6. In view of that, the order of detention passed by the third respondent, in No.67/BCDFGISSSV/2020 dated 23.11.2020 is set aside and the habeas corpus petition is allowed. Consequently, the detenu, namely, Sankara Manikandan @ Ponnangan aged about 23 years son of Paramasivam, who is 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

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

skn

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



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

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

+1 CC to M/s.NIRANJAN.S.KUMAR, Advocate (SR-9641[F] dated 09/03/2021)

H.C.P. (MD) No.175 of 2021

08.03.2021

CN(17.05.2021) 4P 8C