



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.04.2021

CORAM:

**THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MR.JUSTICE B.PUGALENDHI**

H.C.P. (MD) No.172 of 2021

Pappa

... Petitioner

-vs-

1.The State of Tamil Nadu,
represented by the Under Secretary to Government,
Ministry of Home Affairs,
Hall No.10,Second Floor,
Major Dyan Chand Stadium,
New Delhi-110 001.

2.The Principal Secretary to Government,
Public(Law and Order)Department,
Fort St.George,
Chennai - 600 009.

3.The Commissioner of Police,
Tirunelveli City,
Tirunelveli.

4.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tiurnelveli.

... 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 records relating to the impugned order passed by the third respondent in Detention Order No.01/NSA/2020, dated 27.10.2020 and to quash the same as illegal and to direct the respondents to produce the body or person of the detenu namely, Udaiyar, son of Subbaiah, aged about 53 years, who is detained as ''Goonda''(now detained at Central Prison, Palayamkottai)before this Court and set him at liberty.

For Petitioner : Mr.N.Ananthapadmanabhan



For Respondents : Mr.S.Chandrasekar
2 to4 Additional Public Prosecutor

For Respondent-1: Mr.S.Jeya Singh
Central Govt.Standing Counsel

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O R D E R

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

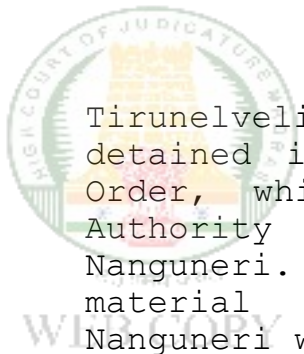
This habeas corpus petition has been filed to quash the Detention Order passed by the third respondent, dated 27.10.2020 in Detention Order No.01/NSA/2020, wherein, the detenu namely, Udaiyar, aged 53 years has been branded as ''Goonda''.

2.Mr.Ananthapadmanabhan, learned counsel appearing for the Petitioner would argue that the detention order impugned in this Habeas Corpus Petition is liable to be quashed on the sole ground of non-application of mind on the part of the Detaining Authority. It is the submission of the learned counsel for the Petitioner that the detenu who is arrayed as A1 was arrested in Crime No.1095 of 2020, on the file of Thatchanallur Police Station on 19.10.2020 and remanded to judicial custody by the Judicial Magistrate No.IV, Tirunelveli, but in the Detention Order, it has been stated that the detenu is detained at Borstal School, Nanguneri, which shows the non-application of mind of the Detaining Authority. It is further submitted that except a solitary case, no adverse case has been filed against the detenu.

3.The learned counsels appearing for the respondents while reiterating the counter filed by the first respondent and third respondent would argue that the Detention Order has been rightly passed by the third respondent taking note of the activities of the detenu involved in Crime No.1095 of 2020, on the file of Thatchanallur Police Station, which is prejudicial to the maintenance of the public order. According to the learned counsel appearing for the State, there is no illegality or irregularity in the Detention Order warranting interference by this Court and prayed for dismissal of the Habeas Corpus Petition.

4.Heard the rival submissions made on either side and examined the materials available on record.

5.In the matter on hand, it is not in dispute that in Crime No.1095 of 2020, on the file of Thatchanallur Police Station, the detenu is one of the accused. It is reported that the Detention Orders have been clamped against all the accused, but the Detention Orders in respect of A2 to A9 has been revoked by the Government based on the report of the Advisory Board. A perusal of Page No.211 of the booklet would show that the detenu and the accused 2 to 6 were remanded to judicial custody by the Judicial Magistrate No.IV,



Tirunelveli on 19.10.2020. It is represented that they have been detained in Central Prison, Palayamkottai, but in the Detention Order, while arriving at the subjective satisfaction, the Detaining Authority has stated that the detenu was in Borstal School, Nanguneri. A perusal of the records reveal that there is no material to show that the detenu is detained at Borstal School, Nanguneri which shows the lack of application of mind on the part of the detaining Authority. So, on this sole ground, the Detention Order impugned in this Habeas Corpus Petition is liable to be quashed.

6. In fine, the Habeas Corpus Petition is allowed. The detention order in Detention Order No.1/NSA/2020, dated 27.10.2020, passed by the third respondent, is set aside. Consequently, the detenu, namely, Udaiyar, son of Subbiah, aged about 53 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 (AD II)

// 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.

Vsn

To:

1. The Under Secretary to Government,
Ministry of Home Affairs,
Hall No.10, Second Floor,
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2. The Principal Secretary to Government,
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4.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli.

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

+1 CC to M/s.S.JEYASINGH, Advocate (SR-15972[F] dated 16/04/2021)

ORDER MADE IN

H.C.P. (MD) No.172 of 2021

16.04.2021

GS (19.05.2021) 4P 7C