



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

and

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

H.C.P. (MD) No.289 of 2021

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Chitra

... Petitioner/Wife of the detenu
-vs-

- 1.The State of Tamil Nadu,
represented by the Additional Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai-600 009.
 - 2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Thanjavur District,
Thanjavur.
 - 3.The Superintendent,
Central Prison,
Tiruchirappalli.
- ... 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 in Detention Order passed in P.D.No.73 of 2020, dated 16.10.2020, on the file of the second respondent herein and to set aside the same as illegal and direct the respondents to produce the body or person of the Petitioner's husband namely Gurunathan, son of Thangamuthu, male, aged 26 years, who is detained in Central Prison, Tiruchirappalli before this Court and set him at liberty.

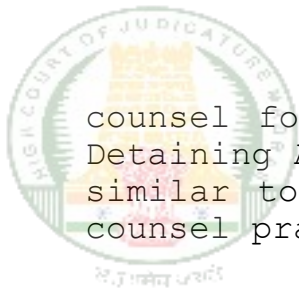
For Petitioner : Mr.K.A.S.Prabhu
For Respondents : Mr.V.Neelakandan
Additional Public Prosecutor

O R D E R

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

This habeas corpus petition has been filed to quash the Detention Order passed by the second respondent, dated 16.10.2020 in P.D.No.73/2020, wherein, the detenu Gurunathan, aged 26 years has been detained branding him as 'Goonda' as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982.

2.Mr.K.A.S.Prabhu, learned counsel appearing for the petitioner, would argue that the Detention Order 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 similar case relied on by the Detaining Authority to arrive at the subjective satisfaction is not similar to the case of the detenu and on this ground, the learned counsel prays for allowing this Habeas Corpus Petition.

3.Per contra, Mr.V.Neelakandan, learned Additional Public Prosecutor appearing for the respondents would argue that the second respondent has rightly detained the detenu after being satisfied with the materials produced by the Sponsoring Authority and as such, 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 the rival submissions made by the learned counsel appearing on either side and perused the materials available on record.

5.In the case on hand, the detenu has been detained for his involvement in Crime No.1106 of 2020, on the file of Sengipatti Police Station. It is an admitted fact that no adverse case has been registered against the detenu. The Detaining Authority to arrive at the subjective satisfaction has relied on the order passed by this Court in Crl.O.P(MD)No.20102 of 2013, dated 12.11.2013. The accused 1 to 3 in that case were granted bail on the ground that the co-accused has already been granted bail. In the present case, all the arrested accused are in judicial custody, which shows lack of application of mind on the part of the Detaining Authority.

6. In such view of the matter, the Habeas Corpus Petition is allowed. The Detention Order in P.D.No. 73 of 2020, dated 16.10.2020, passed by the second respondent, is set aside. Consequently, the detenu, namely, Gurunathan, son of Thangamuthu, aged about 26 years, who is now detained at Central Prison, Tiruchirappalli is directed to be released forthwith unless his presence or custody or detention is required in connection with any other case.

Sd/-

Assistant Registrar (RTI)

// 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.

<https://hcservices.ecourts.gov.in/hcservices/>



To:

- 1.The Additional Secretary to Government,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai-600 009.
- 2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Thanjavur District,
Thanjavur.
- 3.The Superintendent,
Central Prison,
Tiruchirappalli.
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.289 of 2021
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