



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.06.2021

CORAM:

**THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MR.JUSTICE G.ILANGO VAN**

H.C.P. (MD) No.576 of 2021

Sheik Mohammed

... Petitioner

-vs-

1.The Additional Chief Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.

2.The District Magistrate and District Collector,
Office of the District Magistrate and District Collector,
Dindigul District, Dindigul.

3.The Superintendent of Prison,
Madurai Central Prison,
Madurai District.

... 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 of the Respondent No.2 in Detention Order No.28/2020, dated 12.06.2020 and quash the same and direct the Respondents to produce the body or person of the detenu by name Sheik Mohammed, son of Ibrahimsha, aged about 23 years, now detained as "Goonda" at Madurai Central Prison before this Court and set him at liberty forthwith.

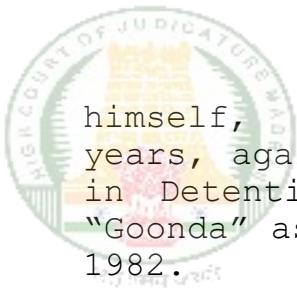
For Petitioner: Mr.R.Alagumani

For Respondents : Mr.S.Ravi
Standing Counsel for the Government

O R D E R

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

<https://hcservices.ecourts.gov.in/hcservices> This habeas corpus petition has been filed by the detenu



himself, namely, Sheik Mohammed, Son of Ibrahimsha, aged about 23 years, against the detention order passed by the second respondent, in Detention Order No.28/2020, dated 12.06.2020 branding him as "Goonda" as contemplated under Section 2(f) of Tamil Nadu Act, 14 of 1982.

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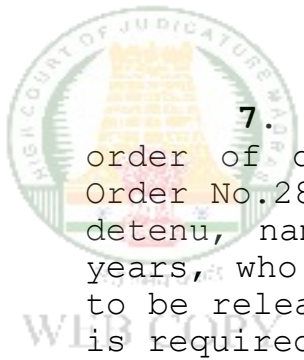
2. Mr.R.Alagumani, learned counsel appearing for the petitioner would contend that the detention order impugned in this habeas corpus petition is liable to be quashed on the sole ground of non application of mind on the part of the detaining authority while arriving at subjective satisfaction.

3. Per contra, Mr.S.Ravi, learned Standing Counsel appearing for the respondents, on instructions, would submit that the detenu in this case has involved in a grievous offence of murder and the detaining authority after satisfying with the materials placed by the sponsoring authority has rightly clamped the order of detention against the detenu. According to the learned Standing Counsel appearing for the respondents, there is no illegality in the detention order warranting interference of this Court.

4. Heard the learned counsel appearing on either side and perused the materials available on record.

5. The second respondent has passed the detention order against the petitioner for his involvement in Cr.No.560 of 2020 on the file of the Batlagundu Police Station for the offences punishable under Sections 341 and 302 of IPC. In paragraph-5 of the grounds of detention it is stated that his bail application in Cr.M.P.No.268 of 2020 is pending consideration before the District Principal and Sessions Judge, Dindigul. However, in the later part of the same paragraph, it is mentioned that the detenu is likely to come out on bail by filing a bail application before the higher forum. It is also seen that in paragraph-4 of the grounds of detention it is stated that he is committing crimes continuously. The detenu is admittedly involved in only one case and his bail application was pending before the Principal District and Sessions Judge, Dindigul in Cr.M.P.No.268/2020. The conclusion reached by the detaining authority to arrive at a subjective satisfaction that the detenu is likely to come out on bail by filing bail application before the higher Court and also committing the crimes continuously shows the lack of non-application of mind.

6. In the light of the above facts and circumstances, we are convinced that the impugned detention order would not stand to the scrutiny of this Court and the same is, therefore, liable to be set aside.



7. In fine, the Habeas Corpus Petition is allowed. The order of detention passed by the second respondent, in Detention Order No.28/2020, dated 12.06.2020, is set aside. Consequently, the detenu, namely, Sheik Mohammed, son of Ibrahimsha, aged about 23 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 (CSI)

// 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 Additional Chief Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.
- 2.The District Magistrate and District Collector,
Office of the District Magistrate and District Collector,
Dindigul District, Dindigul.
- 3.The Superintendent of Prison,
Madurai Central Prison,
Madurai District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 5.The joint secretariat to Govt,
Public (Law&order),
Fort saint George,
Chennai-9.

H.C.P. (MD) No.576 of 2021

03.06.2021

GS (16.06.2021) 3P 6C

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