



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :08.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE V. BHARATHIDASAN

and

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

H.C.P. (MD) No.605 of 2021

Petchiammal

... Petitioner/ Mother of the detenu

-vs-

1. State of Tamil Nadu,
represented by the Additional Chief Secretary to Government,
Home, Prohibition and Excise Department (xiv)
Secretariat, Chennai - 9.
 2. The District Collector and the District Magistrate,
O/o. the District Collector and the District Magistrate,
Tirunelveli District,
Tirunelveli.
 3. The Superintendent,
Central Prison,
Trichy District.
- ... Respondents

PRAYER : Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Habeas Corpus, calling for the entire records in detention order in M.H.S.Confdl.No.22 of 2021 dated 13.03.2021 on the file of the second respondent herein and set aside the same as illegal and direct the respondents to produce the body or person of the petitioner's son namely Pitchumani, S/o.Ramakrishnan, aged 33 years, who is detained in Central Prison, Trichy before this Court and set him at liberty.

For Petitioner : Mr.S.Selvakumar
For Respondents : Mr.S.Ravi
Additional Public Prosecutor

O R D E R

(Order of the Court was made by V.BHARATHIDASAN, J.)

This Habeas Corpus Petition has been filed by the Mother of the detenu, namely, Pitchumani, S/o.Ramakrishnan, aged about 33 years, against the detention order passed by the second



respondent, in M.H.S. Confdl. No.22 of 2021, dated 13.03.2021, branding him as 'Goonda' as contemplated under Section 2(f) of the Tamil Nadu Act, 14 of 1982.

2. Mr.S.Selvakumar, learned counsel appearing for the petitioner, would argue that the similar case relied on by the Detaining Authority is not similar to the case of the detenu. However, the Detaining Authority, to arrive at the subjective satisfaction, relied upon the similar case bail order. Hence, the impugned order is liable to be quashed on the ground of non-application of mind on the part of the Detaining Authority. Further, the accused was arrested on 14.02.2021, but the detention order came to be passed only with the delay of 29 days ie., on 13.03.2021. In addition to that, the arrest of the detenu was also not properly intimated to his relatives.

3. Per contra, Mr.S.Ravi, learned Additional Public Prosecutor appearing for the State on instructions would submit that the detention order came to be passed considering the gravity of the offence and on satisfying with the cogent and relevant materials furnished by the sponsoring authority. According to the learned Public Prosecutor, there is no illegality or irregularity in the detention order warranting interference of this Court and prayed for dismissal of this Habeas Corpus Petition.

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

5. It is evident from the records that the petitioner has not filed any bail application. However, to arrive at the subjective satisfaction, the Detaining Authority has referred the bail granted to one Arunachalam by the Sessions Court, Tirunelveli in C.R.M.P.No.880 of 2020, dated 30.01.2020. It is seen that the accused was arrested on 14.02.2021, but the detention order came to be passed only with the delay of 29 days ie., on 13.03.2021 and there is no live link between the alleged prejudicial activities of the petitioner and the order of detention. Therefore, we are of the opinion that the similar case relied on by the detaining authority is not similar to the case of the detenu and it is a case of non application of mind.

6. In the light of the above facts, we are of the opinion that the detention order impugned in this Habeas Corpus Petition is liable to be set aside. Accordingly, the order of detention passed by the second respondent, in M.H.S.Confdl. No.22 of 2021, dated 13.03.2020, is set aside and the Habeas Corpus Petition is allowed. Consequently, the detenu, namely, Pitchumani, S/o.Ramakrishnan, aged about 33 years, who is now detained at Central Prison, Trichy is directed to be released forthwith unless



his presence or custody or detention is required in connection with any other case.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

akv/ebsi

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 Additional Chief Secretary to Government,
Home, Prohibition and Excise Department (xiv)
Secretariat, Chennai - 9.
2. The District Collector and the District Magistrate,
O/o. the District Collector and the District Magistrate,
Tirunelveli District,
Tirunelveli.
3. The Superintendent,
Central Prison,
Trichy District.
4. The Joint Secretary to Government of Tamil Nadu,
Public (Law & Order)
Fort St. George,
Chennai - 600 009.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

**H.C.P. (MD) No.605 of 2021
08.10.2021**

NA (CO)

SB(30.11.2021) 3P 6C

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