



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :26.07.2021

CORAM:

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

H.C.P. (MD) Nos.668 and 676 of 2021

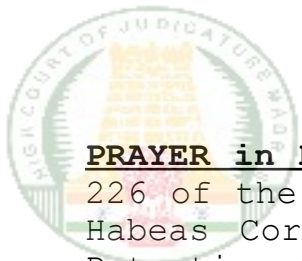
1.G.Muthumari ... Petitioner/wife of the detenu in
H.C.P(MD)No. 668 of 2021

2.K.Bala GomathiPetitioner/wife of the detenu in
H.C.P(MD)No.676 of 2021

-vs-

- 1.The State of Tamil Nadu,
represented by the Additional Chief Secretary to Government,
Home, (Prohibition and Excise Department),
Secretariat,
Chennai-9.
- 2.The District Collector/ District Magistrate,
Collectorate,
Tirunelveli District,
Tirunelveli-9.
- 3.The Superintendent of Central Prison,
Palayamkottai Central Prison,
Tirunelveli District.
- 4.The Superintendent Prison,
Srivaikundam Sub-Jail,
Thoothukudi District. ... Respondents in both H.C.Ps'

PRAYER in H.C.P(MD)No.668 of 2021 : 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 in M.H.S.Confdl.No.08/2021, dated 11.02.2021 passed by the second respondent on the husband of the Petitioner viz., Ganapathi @ Ganesan, son of Ramasamy, aged 37/2021, who has been detained and branded as Goonda under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders and Goondas Act and confined at Srivaikundam Sub-Jail, before this Court and set him at liberty.



PRAYER in H.C.P(MD)No.676 of 2021 : 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 in M.H.S.No.Confdl.No.07/2021, dated 11.02.2021 passed by the second respondent on the husband of the Petitioner viz., Kaliappan, son of Ramasamy, aged 39/2021, who has been detained and branded as Goonda under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders and Goondas Act and confined at Central Prison, Palayamkottai before this Court and set him at liberty.

For Petitioner : Mr.I.Robert Chandrakumar
in both H.C.Ps'

For Respondents : Mr.S.Ravi,
in both H.C.Ps' Standing Counsel for the State

COMMON ORDER

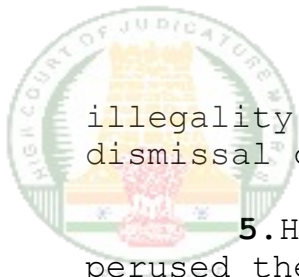
(Order of the Court was made by K.KALYANASUNDARAM, J.)

H.C.P(MD)No.668 of 2021 has been filed by the wife of the detenu, namely, Ganapathi @ Ganesan, son of Ramasamy, aged about 37 years, challenging the detention order in M.H.S.Confdl.No.08/2021, dated 11.02.2021, passed by the second respondent, branding him as "Goonda" as contemplated under Section 2 (f) of Tamil Nadu Act 14 of 1982.

2.H.C.P(MD)No.676 of 2021 has been filed by the wife of the detenu, namely, Kaliappan, son of Ramasamy, aged about 39 years, challenging the detention order in M.H.S.Confdl.No.07/2021, dated 11.02.2021, passed by the second respondent, branding him as "Goonda" as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982.

3. Mr.I.Robert Chandrakumar learned counsel for the petitioners, would argue that the detention orders in these Habeas Corpus petitions are liable to be quashed on the sole ground of non-application of mind on the part of the detaining authority. According to the learned counsel, to arrive at the subjective satisfaction, the detaining authority has referred to the bail granted to one Sankar @ Vijaya Sankar in Crime No.426 of 2020 by the Sessions Court, Tirunelveli. The similar case relied on by the detaining authority is not similar to the case of the detenus.

4.Mr.S.Ravi, learned Standing Counsel for the State, on instructions, submitted that in both the cases, the detenus were accused in a murder case and within a period of two days, they have threatened the witnesses and hence the second case has been registered. According to the learned Standing counsel, there is no



illegality or infirmity in the detention order and hence, prayed for dismissal of the habeas corpus petitions.

5. Heard the rival submissions made on either side and perused the materials placed before this Court.

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6. A perusal of the records show that the second respondent to reach the subjective satisfaction has relied on the bail granted by the learned Sessions Judge, Tirunelveli for the accused Sankar @ Vijaya Sankar for his involvement for the offence under Section 294 (b), 307 and 506(ii) of IPC. While considering the bail application, there was no allegation nor any material was produced to show that the said accused is involved in adverse cases. But in the matter on hand, the detenus were accused in the adverse case of murder and the same was not taken into account while arriving at the subjective satisfaction. Hence we are convinced that there is lack of application of mind on the part of the detaining authority and on the said ground, the detention orders are liable to be set aside.

7. In fine, the Habeas Corpus Petitions are allowed. The detention orders in M.H.S.Confdl.No.08/2021, dated 11.02.2021 and M.H.S.Confdl.No.07/2021, dated 11.02.2021 passed by the second respondent, are set aside. Consequently, the detenus, namely, Ganapathi @ Ganesan, son of Ramasamy, aged about 37 years, and (2) Kaliappan, son of Ramasamy, aged about 39 years, who are now detained at Central Prison, Palayamkottai is directed to be released forthwith unless their presence or custody or detention is required in connection with any other case.

Sd/-

Assistant Registrar(P & A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

vsn

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,
Government of Tamil Nadu,
Home, (Prohibition and Excise Department),
Secretariat,
Chennai-9.
- 2.The District Collector/ District Magistrate,
Collectorate,
Tirunelveli District,
Tirunelveli-9.
- 3.The Superintendent of Central Prison,
Palayamkottai Central Prison,
Tirunelveli District.
- 4.The Superintendent Prison,
Srivaikundam Sub-Jail,
Thoothukudi District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

COMMON ORDER MADE IN
H.C.P. (MD) Nos.668 and 676 of 2021
26.07.2021

LS (CO)
TR(06.08.2021) 4P 6C