



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.07.2021

CORAM:

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

H.C.P. (MD) No.506 of 2020

M.Jeyalakshmi
of the detenu

... Petitioner/Wife

-vs-

- 1.State of Tamil Nadu,
represented by the Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai 600 009.
- 2.The Commissioner of Police,
Tirunelveli City,
Tirunelveli.
- 3.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of habeas corpus, calling for the entire records connected with the detention order passed in No.5/BCDFGISSSV/2020, dated 10.07.2020, on the file of the second respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu namely the petitioner's husband ie., Muthuraman, aged about 30 years, S/o. Sankar, now detained at Central Prison, Palayamkottai, before this Court and set him at liberty forthwith.

For Petitioner : Mr.N.Pragalathan

For Respondents : Mr.S.Ravi
Standing counsel for Government



O R D E R

[Order of the Court was made by K.KALYANASUNDARAM, J.]

This habeas corpus petition has been filed by the wife of the detenu, namely, Muthuraman, S/o. Sankar, aged about 30 years, against the detention order passed by the second respondent, in No.5/BCDFGISSSV/2020, dated 10.07.2020, branding him as "Goonda" as contemplated under Section 2(f) of the Tamil Nadu Act, 14 of 1982.

2. Mr.N.Pragalathan, learned counsel appearing for the petitioner, would submit that though several grounds have been raised to assail the order of detention, it is liable to be quashed on the sole ground of non-application of mind on the part of the detaining authority. He further added that the Detaining Authority, to arrive a subjective satisfaction has referred to the bail order in Cr.M.P.No.3699 of 2019, dated 23.04.2019, wherein the Principal Sessions Judge, Tirunelveli, granted bail to Vijayaprakash, who was an accused in Crime No.190 of 2019, on the file of Palayamkottai Police Station, on the ground that the co-accused was already released on bail and he did not have any adverse case to his credit. But, in the case on hand, the detenu is having two adverse cases and the co-accused was also in judicial custody.

3. Mr.S.Ravi, learned Standing counsel appearing for the respondents, on instructions, submitted that after satisfying with the materials placed by the Sponsoring Authority, the Detaining Authority has passed the detention order and there is no illegality or infirmity in the detention order and prayed for dismissal of the habeas corpus petition.

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

5. A perusal of the booklet shows that the learned Principal Sessions Judge, Tirunelveli granted bail to Vijayaprakash in Cr.M.P.No.3699 of 2019, dated 23.04.2019, on the ground that the property was recovered, the petitioner had no previous case and the co-accused in this case has granted bail. However, in the case on hand, both the accused involved in the ground case were arrested and remanded to judicial custody. The co-accused was not granted bail and the detenu is having two adverse cases. Therefore, we are of the opinion that the similar case referred by the Detaining Authority and relied on to arrive a subjective satisfaction is not similar to the case of the detenu.

6. In fine, the Habeas Corpus Petition is allowed. The detention order made in No.5/BCDFGISSSV/2020, dated 10.07.2020, passed by the second respondent, is set aside. Consequently, the detenu, namely, Muthuraman, S/o. Sankar, aged about 30 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 (CRL)

WEB COPY

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

akv

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 600 009.
- 2.The Commissioner of Police,
Tirunelveli City,
Tirunelveli.
- 3.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli.
- 4.The Joint Secretary Public(Law&order),
Secretariat,
Chennai-9.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

RKN (28.07.2021) 3P 6C