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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 08.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

AND

THE HONOURABLE MR.JUSTICE G.ILANGO VAN

HCP(MD)No.640 of 2020

P.Nagan : Petitioner/Father of the Detenu

Vs.

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai-9.

2.The District Magistrate/
District Collector/
Detaining Authority,
Dindigul District,
Dindigul.

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

: Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus calling for the records of the 2nd respondent in detention order No.27/2020, dated 12.06.2020, quash the same and consequently, direct the respondents to produce the petitioner's son/detenu namely Sangili, S/o.P.Nagan, aged 34 years who is now detained in Central Prison, Madurai, before this court and set him at liberty and pass such further or other orders.

For Petitioner : Mr.R.Alagumani formulating
M/s.J.Senthil Kumariah

For Respondents : Mr.K.Dinesh Babu
Additional Public Prosecutor

O R D E R

(Order of the Court was made by **G.ILANGO VAN, J**)

The petitioner is the father of the detenu, namely Sangili, aged 34 years. The detenu has been detained under the Tamil Nadu Act 14 of 1982, as per the order of the 2nd respondent, in his proceedings in Detention Order No.27/2020, dated 12.06.2020, branding him as "Goonda". Challenging the same, the petitioner is before this court with this Habeas Corpus Petition.



2.We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the State and also perused the materials available on record.

3.The detainee was remanded to judicial custody on 17.05.2020 for the offences punishable under Sections 341, 194(b) & 302 of IPC in Crime N.332 of 2020 on the file of the Pattiveeranpatti Police Station, Dindigul District. The detention order was passed by the second respondent on 12.06.2020 by branding him as "Goonda" detained under Section 3 (1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum-Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982) after satisfying herself with regard to the grounds.

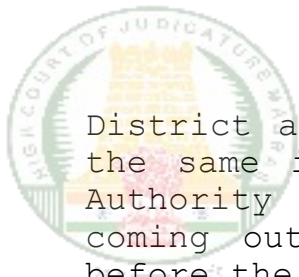
4.According to the learned counsel for the petitioner the adverse case is registered against the detainee and only in the ground case, he was arrested and remanded to judicial custody and the detention order was passed on 12.06.2020, without subject to satisfaction of the Detaining Authority.

5.Mr.K.Dinesh Babu, Additional Public Prosecutor appearing for the State would argue that the detention order has been properly passed after recording the satisfaction of the Detaining Authority, since by indulging such an activity, he created a scare among the public in the ground case.

6.The case, which led into the passing of the detention order, is that a dispute arose between the detainee and one Algarsamy, who is the brother of the deceased. On 17.05.2020, at about 20.30 hours, regarding the rash and negligent driving on the part of the Alagarsamy, there was a wordy quarrel between the detainee and the said Alagarsamy. The fact was informed by Alagarsamy to the deceased. When the deceased has enquired the detainee about the incident, the detainee appears to have assaulted the deceased with a knife and the deceased died on the way to the hospital. Based upon the complaint of the wife of the deceased, a case in Crime No.332 of 2020 came to be registered against the detainee for the offences under Sections 341, 294(b) and 302 of IPC.

7.According to the Detaining Authority, by indulging such activity, he created a scare in the locality and so, he fits into the detention of Goondas as detained under Section 2 (f) of Tamil Nadu Act 14, 1982.

8.Even though, several grounds were raised by the learned counsel for the petitioner for quashing the detention order, he concentrated in the main case with regard to the satisfaction of Detaining Authority. In para 5 of the order, it has been observed that the detainee has filed a bail petition before the Principal



District and Sessions Judge, Dindigul in CrI.MP.No.311 of 2020 and the same is pending. But, in the subsequent lines, the Detaining Authority has stated that there is a possibility of the detenue coming out on bail, in the ground case by filing bail petition before the Higher Court.

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9. According to the petitioner, when the bail application is pending before the Sessions Court, apprehension that there is a possibility of the detenue, coming out on bail by filing bail application before the Higher Court shows that the order has been passed without proper application of mind. This Court is of the considered view that on this ground, the detention order is liable to be quashed.

10. In fine, the Habeas Corpus Petition is allowed. The order passed by the second respondent is set aside. Consequently, the detenu, namely, Sangili, son of P.Nagan, aged about 34 years, who is now detained at Central Prison, Madurai, is directed to be released forthwith, if his presence or custody or detention is not required in connection with any other case.

Sd/-

Assistant Registrar

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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,
Fort St. George,
Chennai-9.

2. The District Magistrate/
District Collector/
Detaining Authority,
Dindigul District,



3.The Joint Secretary to Government,
Public(Law and Order),
Fort St.George,Chennai-9.

4.The Superintendent of Prison,
Central Prison,
Madurai.

5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

HCP(MD) No.640 of 2020
08.02.2021

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