



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

and

THE HONOURABLE MR.JUSTICE G.ILANGO VAN

H.C.P. (MD) No.784 of 2020

WEB COPY

S.Uma

... Petitioner/Wife of Detenu

-vs-

1.The State of Tamil Needy,
Represented by the Addl.Chief Secretary to Government,
Prohibition and Excise Department,
Fort St. George, Chennai-9.

2.The District Collector & District Magistrate,
Thanjavur District,
Thanjavur.

3.The Superintendent,
Central Prison,
Tiruchirappalli.

... 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 records relating to the detention order passed by the second respondent in P.D.No.30 of 2020 dated 04.08.2020, quash the same and direct the respondents to release the detenu namely, Saravanan, aged 48 years, son of Settu alias Mariyappan, Natchiyarkoil Village within Natchiyarkovil Police limits in Thanjavur District now detained at Central Prison, Tiruchirapalli and set him at liberty forthwith.

For Petitioner : Mrs.S.Mahalakshmi

For Respondents : Mr.K.Dinesh Babu

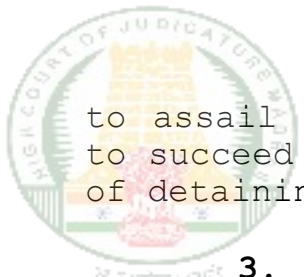
Additional Public Prosecutor

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 detenu, namely, Saravanan, son of Settu alias Mariyappan, aged about 48 years, challenging the detention order in P.D.No.30 of 2020, dated 04.08.2020, passed by the second respondent, branding him as "GOONDA" as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982.

2. Mrs.S.Mahalakshmi, learned counsel appearing for the petitioner, would argue that though several grounds have been raised



to assail the impugned detention order, the petitioner is entitled to succeed in his case on the sole ground of non-application of mind of detaining authority while reaching the subjective satisfaction.

3. Per contra, Mr.K.Dinesh Babu, learned Additional Public Prosecutor, on instructions, would argue that the detention order came to be passed by the second respondent after having satisfied with the materials produced by the sponsoring authority and there is no illegality or infirmity in the order of detention warranting interference by this Court and hence, prayed for dismissal of the habeas corpus petition.

4. Heard both sides and perused the materials available on record.

5. In the matter on hand, the detenu was involved in one adverse case in Cr.No.164 of 2014 on the file of the Natchiyarkoil Police Station for the offences under Sections 294(b), 427, 452 and 506(ii) of IPC and he was granted bail and the case is pending trial. He has also involved in Cr.No.953 of 2020 on the file of the Natchiyarkoil Police Station for the offences under Sections 294(b) and 302 of IPC and he was secured by the police on 01.07.2020 and he was remanded into judicial custody.

6. The detaining authority to arrive at a substantive satisfaction in paragraph-4 of the grounds of detention has stated that he was aware that the detenu Saravanan was remanded to judicial custody and he has not filed any bail petition before the court in the ground case. In paragraph-5 of the grounds it is stated that his father is taking steps to get out of his son by filing bail petition in the ground case. The typed set of papers filed by the petitioner would reveal that in the ground case, a bail petition in Cr.M.P.No.1361 of 2020 was filed before the learned Judicial Magistrate, Thiruvidadaimaruthoor in Cr.No.953 of 2020 and it came to be dismissed on 03.07.2020. It shows that, lack of non-application of mind of detaining authority and on that ground, the detention order is liable to be quashed.

7. In fine, the Habeas Corpus Petition is allowed. The detention order in P.D.No.30 of 2020, dated 04.08.2020, passed by the second respondent, is set aside. Consequently, the detenu, namely, Saravanan, son of Settu alias Mariyappan, aged about 48 years, who is now detained at Tiruchirappalli Central Prison, is directed to be released forthwith unless his presence or custody or detention is required in connection with any other case.

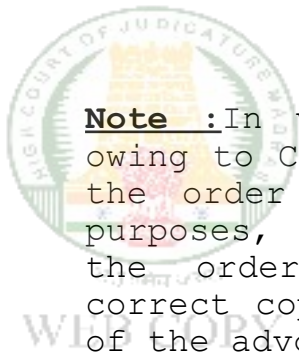
Sd/-

Assistant Registrar (CS-II)

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/ /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 Addl.Chief Secretary to Government,
Prohibition and Excise Department,
Fort St. George, Chennai-9.
- 2.The District Collector & District Magistrate,
Thanjavur District,
Thanjavur.
- 3.The Superintendent,
Central Prison,
Tiruchirappalli.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 5.The Joint Secretary to Government,
Public (Law & Order)
Fort St. George,
Chennai-9

H.C.P. (MD) No.784 of 2020
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VB (03.02.2021) 3P 6C