



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.06.2021

CORAM:

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

H.C.P. (MD) No.734 of 2020

Abdul Ladip

... Petitioner/
Father of the Detenue

-vs-

1.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 600 009.

2.The Commissioner of Police,
Madurai City,
Madurai.

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

4.The Assistant Commissioner of Police
Law and Order,
Anna Nagar Range,
Madurai City.

... 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 in No.27/BCDFGISSSV/2020 dated 26.08.2020 on the file of the Respondent No.2 and quash the same as illegal and direct the respondents to produce the body or person of the petitioner's son, namely, Salmankhan, son of Abdul Ladip, aged about 20 years, now confined at Central Prison, Madurai before this Court and set him at liberty forthwith.

For Petitioner : Mr.SMA.Jinnah

For Respondents : Mr.S.Ravi
Standing Counsel for
Tamil Nadu Government



O R D E R

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

The Habeas Corpus Petition has been filed by the father of the detenu, namely, Salmankhan, male, aged about 20 years, son of Abdul Ladip, who has been branded as "Goonda" by the second respondent in Detention Order in No.27/BCDFGISSSV/2020 dated 26.08.2020 as contemplated under Section 2(f) of the Tamil Nadu Act 14 of 1982.

2.Mr.SMA.Jinnah, learned counsel for the petitioner would argue that the detention order impugned in this habeas corpus petition is liable to be set aside on the sole ground of non application of mind on the part of the detaining authority since the similar case referred by the detaining authority to arrive at subjective satisfaction is not similar to the case of the detenu.

3.Mr.S.Ravi, learned Standing Counsel appearing for the Government while reiterating the counter affidavit filed by the second respondent, would argue that that the detention order has been passed by the second respondent after arriving at the subjective satisfaction based on the cogent and relevant materials placed by the Sponsoring Authority and to prevent the detenu from indulging in similar activities in future. It is further contended that there is no illegality or irregularity in the order of detentions passed by the second respondent. Hence, he prayed for dismissal of this habeas corpus petition.

4.We have heard the rival submissions and perused the materials available on records.

5.Perusal of the records would show that for reaching subjective satisfaction, the second respondent, detaining authority has referred the bail order granted to one Vetriselvam, who is the accused in Crime No.71/2019 on the file of the El K.Pudur Police Station. In that case, the learned III Additional District Judge (PCR) (FAC), Madurai granted bail to the above said Vetriselvam in Cr.M.P.No.488/2019 on 20.05.2020 on the ground that the co-accused in that case was released on bail and the said accused was also in custody more than 90 days. But in the case on hand, occurrence had taken place on 08.06.2020 and the accused were arrested on 09.06.2020 and the detention order came to be passed on 26.08.2020. All the arrested accused were in judicial custody and no one was released on bail. Therefore, we are satisfied that the similar case referred by the detaining authority is not similar to the case of the detenu which shows lack of application of mind on the part of the detaining authority.



6.In fine, the order of detention passed by the second respondent, in No.27/BCDFGISSSV/2020 dated 26.08.2020 is set aside and the Habeas Corpus Petition is allowed. Consequently, the detenu, namely, Salmankhan, male, aged about 20 years, son of Abdul Ladip, now detained at Central Prison, Madurai is directed to be released forthwith unless his presence or custody or detention is required in connection with any other case.

Sd/-

Assistant Registrar(CO)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

skn

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 Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 600 009.
- 2.The Commissioner of Police,
Madurai City,
Madurai.
- 3.The Superintendent of Prison,
Central Prison,
Madurai.
- 4.The Assistant Commissioner of Police
Law and Order,
Anna Nagar Range,
Madurai City.
5. The Joint Secretary to Government,
Public (Law & Order), Fort Saint George, Chennai



6.The Standing Counsel for Tamil Nadu Government,
Madurai Bench of Madras High Court,
Madurai.

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