



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.02.2021

CORAM:

**THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MR.JUSTICE G.ILANGOVAN**

H.C.P. (MD) No.742 of 2020

Muthulingam

... Petitioner/Detenu

-vs-

- 1.The Additional Chief Secretary to Government,
State of Tamilnadu,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-600 009.
 - 2.The District Magistrate and District Collector,
Office of the District Magistrate and District Collector,
Dindigul District.
 - 3.The Superintendent of Prison,
Madurai Central Prison,
Madurai District.
- ... 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 entire records, connected with the detention order of the Respondent No.2 in Detention Order No.59/2020, dated 15.09.2020 and quash the same and direct the Respondents to produce the body or person of the detenu by name Muthulingam, son of Manickam, aged about 23 years, now detained as "Goonda" in Madurai Central Prison before this Court and set him at liberty forthwith.

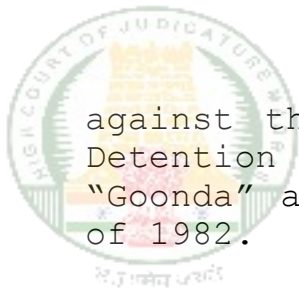
For Petitioner : Mr.R.Alagumani

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 detenu, namely, Muthulingam, son of Manickam, aged about 23 years,
<https://hcservices.ecourts.gov.in/hcservices/>



against the detention order passed by the second respondent, in Detention Order No.59/2020, dated 15.09.2020, branding him as "Goonda" as contemplated under Section 2(f) of Tamil Nadu Act, 14 of 1982.

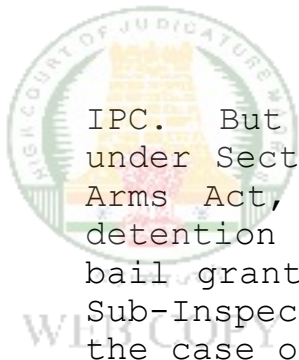
2. Though several grounds have been raised to assail the detention order impugned in this habeas corpus petition, Mr.R.Alagumani, learned counsel for the petitioner would argue that the detention order is liable to be quashed on two grounds. Firstly, the arrest of the detenu in the ground case has not been properly intimated to the family members of the detenu or his friends and relatives. Secondly, the similar case details relied on by the detaining authority to arrive at a subjective satisfaction is not similar to the case of the detenu.

3. Per contra, Mr.K.Dinesh Babu, learned Additional Public Prosecutor, on instructions, would argue that the detenu has involved in a grave offence, where, they have assaulted the police officials on duty. Taking into gravity of the offence committed by the accused, the second respondent has rightly clamped the order of detention. There is no illegality or irregularity in the impugned detention order warranting interference of this Court. Furthermore, the intimation of arrest of the detenu was given through SMS and hence, the rights of the detenu has not been affected in any manner.

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

5. A perusal of the booklet page No.38 would show that the arrest of the detenu, namely, Muthulingam, was informed to his uncle through SMS, to the Cell No.7548864481, but there is nothing on record to show that the said Cell number belongs to the uncle of the detenu and the text also not available in the booklet. This Court, following the decision of the Honourable Apex Court in the case of **D.K.Basu vs. State of West Bengal**, reported in **AIR (1997) SC 610**, in several cases, has consistently held that if there is no proper intimation of arrest of the detenu either to his family members or his relatives, his valuable rights would seriously prejudiced on the sense that they will not have the opportunity to make effective representation to the Authority concerned in time for revocation of the detention order.

6. The detaining authority, the second respondent herein, has referred to the bail granted by the learned Judicial Magistrate, Palani under Section 167(2) Cr.P.C., to one Alagarsamy, who was an accused in Cr.No.31 of 2017 on the file of the Sub-Inspector of Police, Ayakudi Police Station, involved for the offence under Sections 294(b), 353, 332, 307 and 506(ii) of



IPC. But in the ground case, in Cr.No.1142/2020 for the offences under Sections 341, 353, 333, 307, 506(ii) IPC and Section 25(1(a) Arms Act, 1959, the detenu was arrested on 26.08.2020 and the detention order came to be passed on 15.09.2020. The statutory bail granted to the accused in Cr.No.31/2017, on the file of the Sub-Inspector of Police, Ayakudi Police Station is not similar to the case of the detenu.

7. In the light of the above facts and circumstances, we are convinced that the impugned detention order would not stand to the scrutiny of this Court and the same is, therefore, liable to be set aside.

8. In fine, the Habeas Corpus Petition is allowed. The order of detention passed by the second respondent, in Detention Order No.59/2020, dated 15.09.2020, is set aside. Consequently, the detenu, namely, Muthulingam, son of Manickam, aged about 23 years, who is 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 ()

// 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,
State of Tamilnadu,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-600 009.



2.The District Magistrate and District Collector,
Office of the District Magistrate and District Collector,
Dindigul District.

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

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

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

H.C.P. (MD) No.742 of 2020
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