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H.C.P.(MD) No.908 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

and

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

H.C.P. (MD) No.908 of 2020

Palanichamy

... Petitioner

-vs-

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

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

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 second respondent in Detention Order Cr.M.P.No.8 of 2020, dated 08.10.2020 and quash the same and to direct the respondents to produce the body or person of the detenu by name Palanichamy, son of Palanichamy, aged about 62 years, now confining as Sexual offender at Madurai Central Prison, before this Court and set him at liberty forthwith.

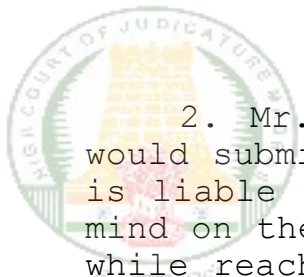
For Petitioner : Mr.R.Prakash

For Respondents : Mr.S.Ravi
Standing counsel for the State

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, Palanichamy, son of Palanichamy, aged about 62 years, challenging the detention order in Cr.M.P.No.8 of 2020, dated 08.10.2020, passed by the second respondent, branding him as "Sexual Offender" as contemplated under Section 2(ggg) of Tamil Nadu Act 14 of 1982.



2. Mr.R.Prakash, learned counsel appearing for the petitioner would submit that the order impugned in this Habeas Corpus Petition is liable to be dismissed on the sole ground of non-application of mind on the part of the statutory authority. He further added that while reaching subjective satisfaction, the detaining authority has relied on the order passed by the Mahalir Court, Virudhunagar District at Srivilliputhur in Cr.M.P.No.337 of 2019, wherein the accused Mariappan was granted bail, considering the fact that the investigation has already been completed. According to the learned counsel, the grounds of detention shows that the investigation in this case is pending. Hence, the order is liable to be set aside.

3. Per contra, Mr.S.Ravi, learned Standing counsel, on instruction would submit that the detention order has been passed by the second respondent on the basis of cogent materials produced by the sponsoring authority. According to the learned Standing counsel, there is no illegality or irregularity in the detention order warranting interference of this Court. It is further stated that the delay in disposal of the representation caused no prejudice to the detenu and prayed for dismissal of this Habeas Corpus Petition.

4. A perusal of the records shows that the Sessions Judge, (Fast Track Mahila Court) at Srivilliputhur granted bail to the accused in Crime No.27 of 2018, on the file of All Women Police Station, Rajapalayam, taking note of the fact that the investigation was already completed. However, in the present case, at Paragraph No.4 of the grounds of detention, it has been stated that the case is under investigation. It is also pointed out that the criminal case was registered on 05.09.2020 and the detenu was secured on 06.09.2020 and the detention order came to be passed on 08.10.2020.

5. In the light of the above facts, we are of the opinion that the similar case referred by the detaining authority is not similar. Hence, the detention order impugned in this Habeas Corpus Petition is liable to be set aside. Accordingly, the order of detention passed by the second respondent, in Cr.M.P.No.8 of 2020, dated 08.10.2020, is set aside and the Habeas Corpus Petition is allowed. Consequently, the detenu, namely, Palanichamy, S/o.Palanichamy, aged about 62 years, who is detained in Central Prison, Madurai, is directed to be released forthwith unless his presence or custody or detention is required in connection with any other case.

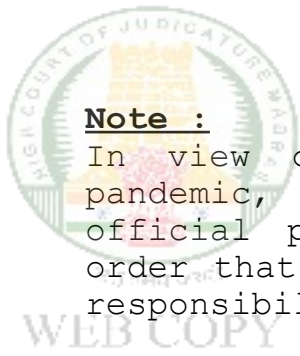
Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /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.

To

- 1.The Principal Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-600 009.
- 2.The District Magistrate and District Collector,
Office of the District Magistrate and District Collector,
Virudhunagar District,
Virudhunagar.
- 3.The Superintendent of Prison,
Madurai Central Prison,
Madurai District.
- 4.The Joint Secretary to Government,
Public (Law & Order),
Fort saint George,
Chennai-600 009.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

H.C.P. (MD) No.908 of 2020
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RD(4.08.2021) 3P 6C