



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

and

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

H.C.P. (MD) No.895 of 2020

WEB COPY

Al Ashik @ Ashik Mohammed ... Petitioner/ Detenu
-vs-

1.The Additional Chief Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai 600 009.

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

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 No.62 of 2020, dated 01.10.2020 and quash the same and direct the respondents to produce the body or person of the detenu by name Al Ashik @ Ashik Mohammed, son of Sowkath Ali, aged about 27 years, now detained as "Goonda" at Madurai Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani

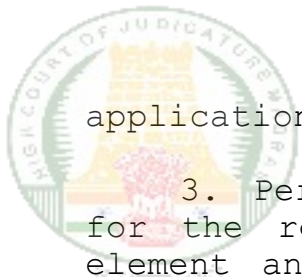
For Respondents : Mr.S.Ravi
Standing counsel for Government

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, Ashik @ Ashik Mohammed, son of Sowkath Ali, aged about 27 years, against the detention order passed by the second respondent in Detention Order No.62 of 2020, dated 01.10.2020, branding him as "Goonda" as contemplated under Section 2(f) of Tamil Nadu Act, 14 of 1982.

2. Mr.R.Alagumani, learned counsel appearing for the petitioner would submit that the detention order impugned in this habeas corpus petition is liable to be quashed on the sole ground of non-



application of mind on the part of the detaining authority.

3. Per contra, Mr.S.Ravi, learned Standing counsel appearing for the respondents would argue that the petitioner is a rowdy element and he has involved in 35 criminal cases and the second respondent, after having satisfied with the materials placed by the sponsoring authority, detained the detenu under Act 14 of 1982 and there is no illegality and irregularity in the detention order.

4. Heard the rival submissions and perused the materials available on record.

5. The second respondent, for reaching the subjective satisfaction, has referred the bail granted to one Muthan @ Maruthamuthu, who is an accused in Crime No.341 of 2016 on the file of Vadamadurai Police Station. The learned Judicial Magistrate, Vendasandur in Cr.M.P.No.5574 of 2016, granted bail to the said Muthan @ Maruthamuthu, on the ground that the investigating agency failed to file a charge sheet within a period of 90 days, under Section 167(2) of Cr.P.C. In the matter on hand, the detenu was arrested on 27.09.2020 and the impugned detention order came to be passed within a period of four days ie., on 01.10.2020. Further, the detaining authority also aware of the fact that the detenu has not filed a bail petition in the ground case, however, referring to the bail granted to the accused Muthan @ Maruthamuthu, a subjective satisfaction has been reached to detain the detenu in this case. We are of the opinion that the similar case relied on by the detaining authority is not similar in nature and it shows lack of application of mind on the part of the detaining authority to reach the subjective satisfaction.

6. In fine, the Habeas Corpus Petition is allowed. The detention order in Detention Order No.62 of 2020, dated 01.10.2020, passed by the second respondent, is set aside. Consequently, the detenu, namely, Ashik @ Ashik Mohammed, son of Sowkath Ali, aged about 27 years, who is now detained at Madurai 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)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

akv

<https://hcservices.ecourts.gov.in/hcservices/>



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 Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai 600 009.
- 2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Dindigul District,
Dindigul
- 3.The Superintendent of Prison,
Madurai Central Prison,
Madurai District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

H.C.P. (MD) No.895 of 2020
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