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H.C.P.(MD) Nos.984, 985 & 987 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

and

THE HONOURABLE MR.JUSTICE G.ILANGO VAN

H.C.P. (MD) Nos.984, 985 & 987 of 2020

Rani

... Petitioner in all H.C.Ps.

-vs-

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

2.The District Magistrate and
District Collector
Karur District, Karur

3.The Superintendent of Prison
Central Prison, Tiruchirappalli

4.The Inspector of Police
Velliyanai Police Station
Karur District

... Respondents in all H.C.Ps.

PRAYER (in H.C.P.(MD) No.984 of 2020): 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 of the impugned order detention in Cr.M.P.No.17/2020, dated 31.07.2020, on the file of the second respondent and quash the same as illegal and to direct the respondent to produce the detainee Gowtham @ Gowthaman, Male, aged about 23 years, son of Devaraj, now detained at Central Prison, Trichirappalli, before this Court and set him at liberty.

PRAYER (in H.C.P.(MD) No.985 of 2020): 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 of the impugned order detention in Cr.M.P.No.16/2020, dated 31.07.2020, on the file of the second respondent and quash the same as illegal and to direct the respondent to produce the detainee Praveen @ Venkatesh, Male, aged about 24 years, son of Devaraj, now detained at Central Prison, Trichirappalli, before this Court and set him at liberty.

PRAYER (in H.C.P.(MD) No.987 of 2020): 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 of the impugned order detention in Cr.M.P.No.15/2020, dated 31.07.2020, on the file of the second respondent and quash the same as illegal and to direct the



respondent to produce the detainee Parthiban @ Logaraj, Male, aged about 25 years, son of Devaraj, now detained at Central Prison, Trichirappalli, before this Court and set him at liberty.

For Petitioner : Mr.S.Kameshwaran
(in all H.C.Ps.) for Mr.B.Vinoth Kumar
For Respondents : Mr.K.Dinesh Babu
(in all H.C.Ps.) Additional Public Prosecutor

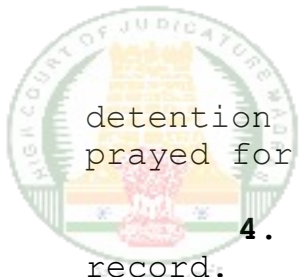
C O M M O N O R D E R

(Order of the Court was made by K.KALYANASUNDARAM, J.)

These habeas corpus petitions have been filed by the mother of the detainees, namely, Gowtham @ Gowthaman, aged about 23 years, Praveen @ Vengadesh, aged about 24 years and Parthiban @ Logaraj, aged about 25 years, sons of Devaraj, challenging the detention orders in Cr.M.P.Nos.17, 16 and 15 of 2020 respectively, dated 31.07.2020, passed by the second respondent, branding them as "Goondas" as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982.

2. Mr.S.Kameshwaran, learned counsel representing Mr.B.Vinoth Kumar, learned counsel on record for the petitioners, would argue that even though the petitioners have raised several grounds, he has confined his arguments only to the lack of application of mind on the part of the Detaining Authority, while reaching the subjective satisfaction. According to the learned counsel, the detainees are brothers and they have been implicated in the ground case for the offence of murder and the case was registered on 11.05.2020 and they were secured by the Police on 13.05.2020. and their bail applications were dismissed by the learned Sessions Judge, Karur, vide Order dated 30.07.2020 in CrI.M.P.No.909 of 2020. But, the Detaining Authority has relied on a bail order granted to the accused Pitchai and others, by the learned Principal District and Sessions Judge, Karur, vide order dated 22.03.2019 in CrI.M.P.No.364 of 2019, wherein bail was granted on the ground that the investigation is almost over and the co-accused was also granted bail. So, it is contended by the learned counsel for the petitioners that the similar case relied on by the Detaining Authority to arrive at the subjective satisfaction is not similar to the case of the detainees herein.

3. Per contra, Mr.K.Dinesh Babu, learned Additional Public Prosecutor, while reiterating the counter affidavit filed by the second respondent, would argue that this is a case of double murder and the Detaining Authority, considering the gravity of the offence and to prevent the detainees from indulging in similar offence, which are prejudicial to the maintenance of the public order, has rightly passed the detention orders. According to the learned Additional Public Prosecutor, there is no illegality or infirmity in the



detention orders warranting interference of this Court and hence, prayed for dismissal of the habeas corpus petitions.

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

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5. In the instant case, the detenues have been arrayed as accused in the ground case and they were arrested by the Investigating Agency on 13.05.2020 and remanded to judicial custody. The impugned detention orders came to be passed on 31.07.2020. The grounds of detention would show that the case is under investigation. However, while reaching the subjective satisfaction, the Detaining Authority has referred the bail order granted to the accused Pitchai and others, by the learned Principal Sessions Judge, Karur, vide order dated 22.03.2019 in CrI.M.P.No.364 of 2019. In the said case, bail was granted to the accused therein on the ground that investigation is almost over and the co-accused has been released on bail. But, in the present case, admittedly, the investigation in the ground case is pending and none of the accused has been released on bail. So, we are of the opinion that as rightly pointed out by the learned counsel for the petitioners, the similar case relied on by the Detaining Authority is not similar to the case of the detenues herein and on that ground, the impugned detention orders are liable to be quashed.

6. In fine,

- (i) H.C.P.(MD) No.984 of 2020 is allowed. The detention order in Cr.M.P.No.17/2020, dated 31.07.2020, passed by the second respondent, is set aside. Consequently, the detenu, namely, Gowtham @ Gowthaman, son of Devaraj, aged about 23 years, who is now detained at Central Prison, Trichirappalli, is directed to be released forthwith unless his presence or custody or detention is required in connection with any other case.
- (ii) H.C.P.(MD) No.985 of 2020 is allowed. The detention order in Cr.M.P.No.16/2020, dated 31.07.2020, passed by the second respondent, is set aside. Consequently, the detenu, namely, Praveen @ Vengadesh, son of Devaraj, aged about 24 years, who is now detained at Central Prison, Trichirappalli, is directed to be released forthwith unless his presence or custody or detention is required in connection with any other case.
- (iii) H.C.P.(MD) No.986 of 2020 is allowed. The detention order in Cr.M.P.No.15/2020, dated 31.07.2020, passed by the second respondent, is set aside. Consequently, the detenu, namely, Parthiban @ Logaraj, son of Devaraj, aged about 25 years, who



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H.C.P(MD) Nos.984, 985 & 987 of 2020

is now detained at Central Prison, Trichirappalli, 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)

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,
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.
- 2.The District Magistrate and
District Collector,
Karur District, Karur.
3. The Joint Secretary to Government,
Public (Law & Order) Fort St. George,
Chennai 600 009
- 4.The Superintendent of Prison,
Central Prison,
Tiruchirappalli.
- 5.The Inspector of Police,
Velliyanai Police Station,
Karur District.
- 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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15.03.2021

MJ (CO)
KB (23.03.2021) 4P 7C

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