



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

and

THE HONOURABLE MR.JUSTICE G.ILANGOVAR

H.C.P. (MD) No.972 of 2020

Dharma

... Petitioner

-vs-

1.State of Tamil Nadu

represented by the Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.

2.The District Collector and the District Magistrate,
Tiruchirappalli District,
Tiruchirappalli.

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

... 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 passed in Cr.M.P.No.70 of 2020, dated 06.10.2020 on the file of the second respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu ie., the petitioner's son namely Dharma, aged about 23 years, S/o.Prabakaran, now detained at the Central Prison, Tiruchirappalli, before this Court and set him at liberty forthwith.

For Petitioner : Mr.N.Pragalathan

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, Dharma, S/o.Prabakaran, aged about 23 years, challenging the detention order in Cr.M.P..No.70 of 2020, dated 06.10.2020, passed by the second respondent, branding him as "Goonda" as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982.

2. Mr.N.Pragalathan, learned counsel for the petitioner, would submit that the impugned detention order has been passed on the sole ground of non application of mind on the part of the detaining authority.



3. Mr.S.Ravi, learned standing counsel, would argue that the second respondent has rightly clamped the detention order against the detenu, after having been satisfied with the materials placed before the sponsoring authority. It is his submission that there is no infirmity or irregularity in the order of detention warranting interference of this Court. Hence, he prayed for dismissal of the Habeas Corpus Petitions.

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

5. In the matter on hand, the detention order has been passed against the detenu for his alleged involvement in Crime No.1578/2020 on the file of Musiri Police Station. The grounds of detention shows that the investigation in that case was pending on the date of the passing of the impugned detention order.

6. The detaining authority for reaching the subjective satisfaction has referred to the bail granted to an accused, namely, Basha @ Malick Basha in Crime No.1821/2018 on the file of the Inspector of Police, Cantonment Police Station. In that case, the learned Principal Sessions Judge, Trichy, granted bail to the said Basha @ Malick Basha in Cr.M.P.No.3972/2019 vide order dated 01.10.2019 mainly on the ground that the co-accused were already granted bail in that case and investigation was also over.

7. In the present case, as referred supra, investigation in that case was pending and the co-accused were also not granted bail. Hence, we are convinced that the similar case relied on by the detaining authority to reach the subjective satisfaction is not similar to the case of the detenu. On this ground, the order of detention is liable to be set aside.

8. In fine, the Habeas Corpus Petition is allowed. The detention order in Cr.M.P.No.70 of 2020, dated 06.10.2020, passed by the second respondent, is set aside. Consequently, the detenu, namely, Dharma, S/o.Prabakaran, aged about 23 years, who is now detained at Central Prison, Tiruchirappalli, is directed to be released forthwith unless his presence or custody or detention is required in connection with any other case.

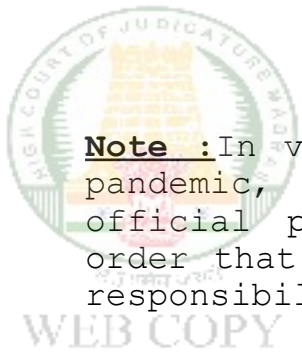
Sd/-

Assistant Registrar (AE)

// 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 Collector and the District Magistrate,
Tiruchirappalli District,
Tiruchirappalli.
- 3.The Superintendent of Prison,
Central Prison,
Tiruchirappalli,
Tiruchirappalli.
4. The Joint Secretary to Government,
Public (Law & Order) Fort St.Goerge,
Chennai 600 009
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

H.C.P. (MD) No.972 of 2020
07.06.2021

KB(17.06.2021) 3P 6C