



WEB COPY

H.C.P.(MD) No.1022 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

and

THE HONOURABLE MR.JUSTICE G.ILANGO VAN

H.C.P.(MD) No.1022 of 2020

S.Annakodi

... Petitioner/Mother of the Detenue
-vs-

1.State of Tamil Nadu

Rep.by its Additional Chief

Secretary to Government

Home, Prohibition & Excise Department

Chennai-9

2.The District Collector / District Magistrate

Madurai District

Madurai

3.The Superintendent

Central Prison

Madurai

... 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 records pertaining to the proceedings of the second respondent made in his proceedings in B.C.D.F.G.I.S.S.S.V.No.18/2020, dated 01.09.2020 and quash the same and set petitioner's son by name Ajithkumar, son of Singaraj, aged about 27 years, at liberty from third respondent.

For Petitioner: Mr.C.Karthikeya

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 mother of the detenu, namely, Ajithkumar, son of Singaraj, aged about 27 years, against the detention order passed by the second respondent, in B.C.D.F.G.I.S.S.S.V.No.18/2020, dated 01.09.2020, branding him as "Goonda" as contemplated under Section 2(f) of Tamil Nadu Act, 14 of 1982.

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



2. It is submitted by Mr.C.Karthikeya, learned counsel for the petitioner that though the detention order has been assailed on several grounds, it is liable to be set aside on the sole ground of non-application of mind on the part of the Detaining Authority while arriving at the subjective satisfaction. According to the learned counsel, the detenu is involved in two adverse cases, besides the ground case in Austinpatti Police Station Crime No.647 of 2020. But, the remand order in the first adverse case has been filed in the booklet, which shows non-application of mind on the part of the Detaining Authority while arriving at the subjective satisfaction.

3. Per contra, Mr.K.Dinesh Babu, learned Additional Public Prosecutor appearing for the respondents, on instructions, submitted that the detention order has been passed by the Detaining Authority after satisfying with the materials placed by the Sponsoring Authority and there is no illegality or irregularity in the impugned detention order and hence, he prayed for dismissal of the habeas corpus petition.

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

5. A perusal of the impugned detention order shows that the detenu is an accused in Austinpatti Police Station Crime Nos.295 of 2019, 277 & 647 of 2020. But, the Detaining Authority, without knowing the fact that the detenu is in judicial custody or not in the ground case, relied on the remand order passed in the first adverse case in Austinpatti Police Station Crime No.295 of 2019, which shows non-application of mind on the part of the Detaining Authority while arriving at the subjective satisfaction. Hence, on this sole ground, the impugned detention order is liable to be set aside.

6. In fine, the Habeas Corpus Petition is allowed. The order of detention passed by the second respondent, in B.C.D.F.G.I.S.S.S.V.No.18/2020, dated 01.09.2020, is set aside. Consequently, the detenu, namely, Ajithkumar, son of Singaraj, aged about 27 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 (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.

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To:

- 1.The Additional Chief Secretary to Government,
Home, Prohibition & Excise Department,
State of Tamil Nadu, Chennai-9.
- 2.The District Collector / District Magistrate,
Madurai District, Madurai.
- 3.The Superintendent,
Central Prison, Madurai.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

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