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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

and

THE HONOURABLE MR.JUSTICE G.ILANGO VAN

H.C.P.(MD) No.1132 of 2020

Petchimuthu

... Petitioner

-vs-

1.State of Tamilnadu,

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

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

3.The Superintendent of Prison,
Central Prison,
Tiruchirapalli,
Tiruchirapalli 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 passed in Cr.M.P.No.26/2020 dated 27.11.2020 on the file of the 2nd respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu i.e., the petitioner's son namely, Pandi @ Durai Pandi, aged about 22 years, S/o.Ganesan, now detained at the Central Prison, Tiruchirapalli, Tiruchirapalli District before this Court and set him at liberty forthwith.

For Petitioner : Mrs.P.Krishnaveni

For Respondents : Mr.K.Dinesh Babu

Additional Public Prosecutor

ORDER

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

This habeas corpus petition has been filed by the mother of the detenu, namely, Pandi @ Durai Pandi, son of Ganesan, aged about 22 years, against the detention order passed by the second respondent, in Cr.M.P.No.26/2020, dated 27.11.2020, branding him as "Goonda" as contemplated under Section 2(f) of Tamil Nadu Act, 14 of 1982.

2.Mrs.P.Krishnaveni, learned counsel appearing for the



petitioner would argue that though several grounds have been raised to assail the detention order impugned in this habeas corpus petition, he is entitled to succeed in this petition mainly on the ground of non application of mind on the part of the detaining authority while arriving at subjective satisfaction. It is the contention of the learned counsel for the petitioner that admittedly, the detenu is involved only in Cr.No.1031 of 2021 on the file of the Karur Town Police Station, for the offences under Sections 302, 34, 120(B) and 506(ii) of IPC r/w 3(2)(v) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2016, but the detaining authority in paragraph-4 of the Vernacular language described as habitual offender. It is further contended that the bail petition filed by the petitioner in CrI.M.P.No.1710 of 2020 was pending before the Principal District and Sessions Judge, Karur, but in paragraph-5 of the grounds of detention it has been stated that there is a possibility of the detenu is coming out on bail by filing bail petitions before the competent Court. According to the learned counsel for the petitioner, this shows lack of non-application of mind on the part of the detaining authority at the time of passing the detention order.

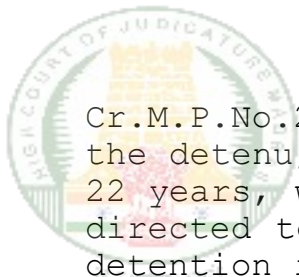
3. Mr.K.Dinesh Babu, learned Additional Public Prosecutor, on instructions, submitted that the impugned detention order has been rightly passed, against the detenu, by the detaining authority, taking note of the involvement of the detenu and it has been passed to prevent the detenu from indulging in similar activities in future which is prejudicial to the maintenance of public order. There is no illegality or infirmity in the detention order warranting interference of this Court.

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

5. In the matter on hand, it is not in dispute that the detenu is one of the accused in Cr.No.1031 of 2020, which was registered by the Karur Town Police Station and no other case has been registered against him, but he has been described as habitual offender in the grounds of Detention. It is also an admitted fact that his bail petition is pending before the Principal District and Sessions Court, Karur, however, the detaining authority has stated that there is real possibility of the detenu is coming out on bail by filing a bail petition. This shows lack of application of mind of the detaining authority.

6. In the light of the above facts and circumstances, we are convinced that the impugned detention order would not stand to the scrutiny of this Court and the same is, therefore, liable to be set aside.

7. In fine, the Habeas Corpus Petition is allowed. The detention passed by the second respondent, in



Cr.M.P.No.26/2020, dated 27.11.2020, is set aside. Consequently, the detenu, namely, Pandi @ Durai Pandi, son of Ganesan, aged about 22 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.

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Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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 Joint Secretary to Government
Public(law & order),
Fort St.George, Chennai-9
- 3.The District Collector and District Magistrate,
Karur District,
Karur.
- 4.The Superintendent of Prison,
Central Prison,
Tiruchirapalli,
Tiruchirapalli District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

H.C.P. (MD) No.1132 of 2020
02.03.2021

PM(CO)

KK(19.03.2021) 3P 6C

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