



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.04.2021

CORAM:

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**THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MR.JUSTICE B.PUGALENDHI**

H.C.P. (MD) No.1168 of 2020

V.Senbagavalli

... Petitioner

-vs-

1.The Commissioner of Police,
Madurai City, Madurai.

2.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600 009.

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

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of habeas corpus calling for the entire records connected with the detention order in No.55/BCDFGISSSV/2020 dated 23.10.2020 on the file of the 1st respondent and quash the same as illegal and direct the respondents to produce the body or person of the detainee namely Senbagamoorthy @ Peruchali, aged about 23 years, son of Venkatesh, now confined at Central Prison, Madurai before this Court and set him at liberty forthwith.

For Petitioner : Mr.A.Jeyaram

For Respondents : Mr.S.Chandrasekar
Additional Public Prosecutor



O R D E R

[Order of the Court was made by K.KALYANASUNDARAM, J.]

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This habeas corpus petition has been filed by the mother of the detenu, namely, Senbagamoorthy @ Peruchali, son of Venkatesh, aged about 23 years, who is detained by the order of the first respondent dated 23.10.2020 in No.55/BCDFGISSSV/2020 branding him as "Goonda" as contemplated under Section 2(f) of the Tamil Nadu Act 14 of 1982.

2.Mr.A.Jeyaram, learned counsel for the petitioner would argue that though several grounds have been raised to challenge the detention order, he confines his argument only with regard to the non-application of mind on the part of the detaining authority in passing the detention order impugned in this habeas corpus petition. He further submitted that the detaining authority has referred a similar case to arrive at subjective satisfaction. In that case, the accused in Crime No.907 of 2019 on the file of the Inspector of Police, Tallakulam Police Station was granted bail mainly on the ground that the investigation was completed and final report was filed, but in the case on hand, investigation is still pending, which shows non-application of mind on the part of the detaining authority while passing the detention order.

3.Per contra, Mr.S.Chandrasekar, learned Additional Public Prosecutor submitted that the Detaining Authority has arrived at the subjective satisfaction based on the cogent and relevant materials placed by the Sponsoring Authority and there is no infirmity or irregularity in the impugned order of detention passed by the second respondent and hence, prayed for dismissal of the habeas corpus petition.

4.Heard the rival submissions of both the counsels and perused the materials available on records.

5.In the matter on hand, the detenu is the one of the accused in Crime No.1545 of 2020 on the file of E3 Anna Nagar Police Station, Madurai City. Further, in this case, investigation is pending, but the detaining authority relied on the case referred above, in which, the investigation was completed and charge sheet was also filed. So, we are of the opinion that the detaining authority has not applied his mind while reaching the subjective satisfaction at the time of passing the detention order. Hence, the impugned detention order passed by the first respondent is liable to be set aside.



6. In view of that, the order of detention passed by the 1st respondent, in No.55/BCDFGISSSV/2020 dated 23.10.2020 is set aside and the habeas corpus petition is allowed. Consequently, the detenu, namely, Senbagamoorthy @ Peruchali, son of Venkatesh, aged about 23 years, who is 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

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

gk

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 Commissioner of Police,
O/o the Commissioner of Police,
Madurai City.
 - 2.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
 - 3.The Superintendent of Prison,
Central Prison,
Madurai.
 - 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- +1 CC to M/s.A.JEYARAM, Advocate (SR-16451[F] dated 19/04/2021)

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