



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.06.2021

CORAM:

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

H.C.P(MD)No.1198 of 2020

Chitra,
W/o.Palanivel,
Mariyamman Kovil Street,
Kunnam Taluk,
Perambalur District.

... Petitioner/Mother of the Detenu

vs.

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

2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Perambalur District,
Perambalur.

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

... 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 of the second respondent in Cr.M.P.No.09/2020, dated 08.07.2020 and quash the same and direct the respondents to produce the body or person of the detenu by name Manikandan, son of Palanivel, aged about 23 years, now confining as "Goonda" at Trichy Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani

For Respondents : Mr.S.Ravi
Standing counsel for Government



O R D E R

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

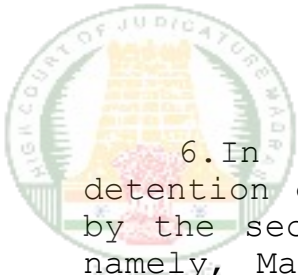
This Habeas Corpus Petition has been filed by the mother of the detenu, namely, Manikandan, son of Palanivel, aged about 23 years, against the detention order passed by the second respondent, in Cr.M.P.No.09/2020, dated 08.07.2020, branding him as "Goonda" as contemplated under Section 2(f) of Tamil Nadu Act, 14 of 1982.

2.Mr.R.Alagumani, learned counsel appearing for the petitioner would argue that even though the petitioner has raised several grounds, the impugned detention order is liable to be set aside on the sole ground of non-application of mind by the Detaining Authority while arriving the subjective satisfaction. It is the submission of the learned counsel appearing for the petitioner that the similar case referred to and relied on by the Detaining Authority is not similar to that of the case of the detenu.

3.Per contra, Mr.S.Ravi, learned Standing counsel appearing for the respondents, while reiterating the averments made in the counter-affidavit filed by the second respondent, has submitted that the detenu is an accused in a criminal case, in which he has murdered his grandmother. The detenu's wife is also one of the accused in the criminal case. It is further contended that the detenu has also involved in one another murder case in Ariyalur District. It is the further submission that the second respondent, at the time of detention order, has scrutinised the same and followed the procedures contemplated under the Act. According to the learned Standing Counsel, there is no illegality or irregularity in the detention order warranting interference.

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

5.In the present case, the detenu was detained by the second respondent, vide detention order, dated 08.07.2020. While reaching the subjective satisfaction, the detaining authority has referred to the bail granted to one Lakshmanan, who was an accused in Crime No.258 of 2012, on the file of the Thirumanur Police Station. The Principal District and Sessions Judge, Ariyalur, granted him bail in Cr.M.P.No.1299 of 2012. In that case, bail was granted to the abovesaid accused on the ground that the prime accused A.1 and A.7 were already granted bail and the case came to be registered after a lapse of four years. But, in the matter on hand, as mentioned above, both the accused were arrested and remanded to judicial custody. Hence, we are of the considered view that the similar case referred by the Detaining Authority is not similar to the case of the detenu. On this ground, the detention order is liable to be quashed.



6.In fine, the Habeas Corpus Petition is allowed. The detention order made in Cr.M.P.No.09/2020, dated 08.07.2020, passed by the second respondent, is set aside. Consequently, the detenu, namely, Manikandan, son of Palanivel, aged about 23 years, who is now detained at Central Prison, Trichy, 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)

ps

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 District Magistrate,
Office of the District Collector and District Magistrate,
Perambalur District, Perambalur.
- 3.The Superintendent of Prison,
Trichy Central Prison, Trichy.
4. The Joint Secretary to Government,
Public (Law & Order), Fort Saint George, Chennai
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

**H.C.P (MD)No.1198 of 2020
28.06.2021**

SE (CO)

TR(06.07.2021) 3P 6C