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H.C.P.No.622 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.10.2022

Coram

The Honourable Mr. Justice **P.N.PRAKASH**
and
The Honourable Mr. Justice **RMT.TEEKAA RAMAN**

H.C.P.No.622 of 2022

Manjula

.. Petitioner

Vs

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St.George,
Chennai-600 009.
- 2.The District Collector and District Magistrate,
Coimbatore, Coimbatore District.
- 3.The Superintendent of Police,
Coimbatore, Coimbatore District.
- 4.The Superintendent of Prison,
Central Prison-Coimbatore,
Coimbatore District.
- 5.State represented by
The Inspector of Police,
Annur Police Station,
Coimbatore District.

.. Respondents



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Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the entire records relating to the petitioner's husband detention under Tamil Nadu Act 14/1982 *vide* detention order dated 29.03.2022 on the file of the second respondent herein made in proceedings Cr.M.P.No.08/G/2022/E1 quash the same as illegal and consequently direct the respondents herein to produce the petitioner's husband Kutty @ Rajendran, S/o.Murugan, aged 41 years, before this Court and set the petitioner's husband at liberty from detention, now the petitioner's husband detained at the Central Prison, Coimbatore.

For Petitioner : Mr.W.Camyles Gandhi

For Respondents : Mr.R.Muniyapparaj
Addl. Public Prosecutor

ORDER

(Made by *P.N.PRAKASH, J.*)

The petitioner is the wife of the detenu Kutty @ Rajendran, S/o.Murugan, aged 41 years. The detenu has been detained by the second respondent by his order in Cr.M.P.No.08/G/2022/E1 dated 29.03.2022, holding him to be a "Goonda", as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.



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2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents. We have also perused the records produced by the Detaining Authority.

3. Though many grounds have been raised in the petition, learned counsel appearing for the petitioner, confines his argument only in respect of non-application of mind on the part of the detaining authority in passing the order of detention. He drew the attention of this Court to paragraph no.5 of the grounds of detention and submitted that the detaining authority has relied upon the bail order of the Sessions Court for arriving at a subjective satisfaction that the detenu is likely to be released on bail and hence, there is non-application of mind on the part of detaining authority. Therefore, it is stated that the detenu was deprived of making an effective representation in the absence of furnishing of full particulars by the detaining authority. Hence, it is stated that the Detaining Authority has passed the impugned detention order in total non-application of mind and therefore, the detention order cannot be sustained.



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4. In paragraph no.5 of the grounds of detention, it is stated as follows:

"5) I am aware that Thiru.Kutty @ Rajendran, (aged 41 years), S/o.Murugan, residing at Door No.230/68, Thennampalayam Road, Annur, Annur Taluk, Coimbatore District, is in judicial remand in respect of the case in Coimbatore District, Annur Police Station in Crime No.68/2022 under Section 302 IPC @ Section 120(B), 302 IPC and he is lodged at the Central Prison, Coimbatore. Further, it is revealed from the confession statement of Thiru.Kutty @ Rajendran given on 28.01.2022 that on 28.01.2022 a case in Coimbatore District, Annur Police Station in Crime No.68/2022 was registered against Thiru.Kutty @ Rajendran and his associates Bhagavan @ Tamilselvan, Rajarajan, Ranganathan and Karthi @ Karthikeyan. Further Thiru.Kutty @ Rajendran has filed a bail petition before the Court of Principal District and Sessions Judge, Coimbatore in the case of Coimbatore District, Annur Police Station in Crime No.68/2022 under Section 302 IPC @ Section 120(B), 302 IPC and the same was dismissed on 21.02.2022 in C.M.P.No.727/2022. Further in this case, he has again filed bail petition before the Honourable High Court of Judicature at Chennai and that petition is pending in Crl.O.P.No.7261/2022. In the similar case of Coimbatore District, Periyanaickenpalayam Police



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Station Crime No.17/2021 u/s 120(B), 294(b), 302 IPC, a conditional bail was granted to the accused Thiru.R.Ganesan by the Court of Principal District and Sessions Judge, Coimbatore vide C.M.P.No.765/2021 dated 01.03.2021. Hence, there is a real possibility of Thiru.Kutty @ Rajendran to be released on bail in the case of Coimbatore District, Annur Police Station in Crime No.68/2022 under Section 302 IPC @ Section 120(B), 302 IPC."

5. A reading of the above extract shows that a bail application of the detenu was dismissed by the learned Principal District and Sessions Judge, Coimbatore, aggrieved by which, he has approached this Court for bail, whereas, the detaining authority has relied upon the bail order of the Sessions Court for arriving at a subjective satisfaction that the detenu is likely to be released on bail and if the detaining authority relied upon the bail order of the High Court, then, there could be some justification. Hence, it is apparent that there is non-application of mind on the part of detaining authority. The impugned detention order is therefore liable to be quashed.

In the result, the Habeas Corpus Petition is allowed and the order of detention in Cr.M.P.No.08/G/2022/E1 dated 29.03.2022,



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passed by the second respondent is set aside. The detenu, viz., Kutty
@ Rajendran, S/o.Murugan, aged 41 years, is directed to be released
forthwith unless his detention is required in connection with any other
case.

(P.N.P., J.) (TKRJ)
20.10.2022

Index: Yes/No
nsd



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To

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- 2.The District Collector and District Magistrate,
Coimbatore, Coimbatore District.
- 3.The Superintendent of Police,
Coimbatore, Coimbatore District.
- 4.The Superintendent of Prison,
Central Prison-Coimbatore,
Coimbatore District.
- 5.The Inspector of Police,
Annur Police Station,
Coimbatore District.
- 6.The Joint Secretary to Government of Tamil Nadu,
Public, Law and Order Department,
Secretariat, Chennai – 9.
- 7.The Public Prosecutor,
High Court, Madras.



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P.N.PRAKASH, J.
and
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