



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

and

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

H.C.P. (MD) No.345 of 2022

Indira

... Petitioner/Wife of the detenue
Vs.

1.Government of Tamil Nadu,
Rep. by the Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 600 009.

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

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

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, to call for the entire records connected with the Detention Order passed of the second respondent in P.D.No.74/2021 dated 07.07.2021 and quash the same and direct the respondents to produce the body or person of the detenu by name Rajadurai, S/o.Thangavel, aged about 41 years, now detained as 'Goonda' at Trichy Central Prison, before this Court and set him at liberty forthwith.

For Petitioner : Mr.Ajmal Khan,
Senior Counsel
for Mr.J.Sulthan Basha

For Respondents : Mr.A.Thiruvadi Kumar,
Additional Public Prosecutor.



O R D E R

R.SUBRAMANIAN, J.

AND

N.SATHISH KUMAR, J.

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The petitioner is the wife of the detenu, namely, Rajadurai, S/o.Thangavel, aged about 41 years. The detenu has been detained by the second respondent by his proceedings in P.D.No.74/2021 dated 07.07.2021, 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, on the ground that there is a total non-application of mind on the part of the detaining authority.

2. We have heard the learned Senior Counsel 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 Mr.Ajmal Khan, learned Senior Counsel appearing for the petitioner would raise several grounds, we do not think that it is necessary for us to go in depth into the grounds raised by the learned Senior Counsel.

4. We find that the detaining authority has formed an opinion on the basis that a bail application that has been filed by the wife of the detenu in an attempt to take him out on bail in Crime No.547 of 2021, which is the ground case.

5. Admittedly, the detenu was arrested in two cases namely, Crime Nos.546 and 547 of 2021. The bail application filed in respect of Crime No.546 of 2021 has been dismissed by the learned Principal District and Sessions Judge, Thanjavur, on 29.06.2021. There is no reference to any attempt being made by the wife of the detenu to get him enlarged on bail in Crime No.546 of 2021 in the order of detention. This would reflect the non-application of mind on the part of the detaining authority. In respect of Crime No.547 of 2021 also, the detaining authority has relied upon the order in a bail petition in Cr.M.P.No.294 of 2019 in a similar case. The reliance placed on the order granting bail in similar case also appears to have been mechanically done without reference to the ground situation. Bail is granted on the facts and circumstances of each and every case. Therefore, simply because an accused in another case was granted bail, the detaining authority need not presume that the bail would be granted in a ground case also. Such a presumption also would amount to mechanical application of fact without application of mind.

6. In view of the above, we are of the view that there is



clear non-application of mind on the part of the detaining authority. The impugned detention order is, therefore, liable to be quashed.

7. In the result, the Habeas Corpus Petition is allowed and the order of detention in P.D.No.74/2021 dated 07.07.2021 passed by the second respondent is set aside. The detenu, namely, Rajadurai, S/o.Thangavel, aged about 41 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

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,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 600 009.
 - 2.The District Collector and District Magistrate,
Thanjavur District, Thanjavur.
 - 3.The Superintendent of Prison,
Central Prison, Trichy District.
 4. The Joint Secretary to Government,
Public (Law & Order) Fort St. George, Chennai 600 009
 - 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
- +1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-12677[F] dated 17/03/2022)

H.C.P. (MD) No.345 of 2022
16.03.2022

NSN (CO)

KB (24.03.2022) 3P 7C

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