



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

H.C.P. (MD) No.310 of 2022

M.Mariamammal

... Petitioner/Mother of the Detenu

Vs.

1.The State of Tamil Nadu,
Rep. by the Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.

2.The Commissioner of Police,
Tirunelveli City, Tirunelveli.

3.The Superintendent of Prison,
Palayamkottai Central Prison,
Tirunelveli District.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, to call for the records pertaining to the impugned Detention Order passed by the second respondent made in his proceedings No.44/BCDFGISSSV/2021 dated 14.09.2021 passed by the second respondent in declaring the detenu as "Goonda" and quash the same as illegal and direct the respondents to produce the detenu namely, Muthuraman alias Muthappa, who is detained in Central Prison, Tirunelveli District, before this Court and set him at liberty.

For Petitioner : Mr.K.Anand

For Respondents : Mr.S.Ravi,

Additional Public Prosecutor.

O R D E R

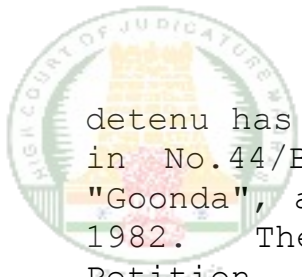
R.SUBRAMANIAN, J.

AND

N.SATHISH KUMAR, J.

The petitioner is the mother of the detenu, namely, Muthuraman alias Muthappa, S/o.Mariappan, aged about 19 years. The

<https://hcservices.ecourts.gov.in/hcservices/>



detenu has been detained by the second respondent by his proceedings in No.44/BCDFGISSSV/2021 dated 14.09.2021, 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 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. The learned counsel for the petitioner would submit that the detention order has been passed without considering the materials in a proper perspective, which resulted in non-application of mind on the part of the detaining authority.

4. The detaining authority has observed that one Vallimanikandan, who was arrested in connection with Crime No.16 of 2019 had filed a bail application before the Principal Sessions Judge (i/c), Tirunelveli and he was granted bail on 11.03.2019 in Cr.M.P.No.2077 of 2019 and therefore, there is likelihood of the detenu in this case coming out on bail. Such an observation is nothing but non-application of mind on the part of the detaining authority.

5. Admittedly, the detenu has not moved any bail application. Therefore, merely because some other accused in some other crime number has been released on bail, the same cannot be a ground to hold that the detenu also likely to be released on bail, particularly, when the detenu has not even moved any bail application. It is also to be noted that a similar case theory cannot be applied mechanically. Bail is normally granted taking into consideration of facts and circumstances of each and every case.

6. In such view of the matter, we are of the view that the detaining authority had mechanically passed the order anticipating the release on bail, which shows clear non-application of mind on the part of the detaining authority and further it is also brought to the notice of this Court that the detaining authority has not furnished the translated copies in tamil of the order in the similar case. 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 No.44/BCDFGISSSV/2021 dated 14.09.2021 passed by the second respondent is set aside. The detenu, namely, Muthappa, S/o.Mariappan, aged about 19 years, is



directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

WEB 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,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
- 2.The Commissioner of Police,
Tirunelveli City, Tirunelveli.
- 3.The Superintendent of Prison,
Palayamkottai Central Prison,
Tirunelveli District.
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.310 of 2022
29.04.2022

ck(CO)

TR(28.05.2022) 3P 6C