



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

and

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

H.C.P. (MD) Nos.532 & 533 of 2021

WEB COPY

Saroja

... Petitioner in both petitions

Vs.

1.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,
Tiruchirappalli.

...Respondents in both petitions

COMMON PRAYER: Petitions 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 in P.D.Nos.29 of 2021 and 30 of 2021 dated 08.03.2021 in detaining the detainees under Section 2(f) of the Tamil Nadu Act 14 of 1982 as a "Goonda" and quash the same and direct the respondents to produce the detainees namely, Guna @ Gunasekar, S/o.Umanath, male, aged about 24 years and Ragupathi, S/o.Sekar, male, aged about 24 years, who are now detained at Central Prison, Tiruchirappalli, before this Court and set them at liberty, respectively.

In both petitions

For Petitioner : Mr.K.M.Karunakaran

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

COMMON ORDER

R.SUBRAMANIAN, J.

AND

N.SATHISH KUMAR, J.

The petitioner is the mother and aunt of the detainees, namely, Guna @ Gunasekar, S/o.Umanath, aged about 24 years and Ragupathi, S/o.Sekar, aged about 24 years. The detainees have been detained by the second respondent by his order in P.D.Nos.29 of 2021 and 30 of 2021, dated 08.03.2021, holding them to be a "Goonda", as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982. The



said orders are under challenge in these Habeas Corpus Petitions.

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 petitioner challenges the detention orders of his son and nephew, who have been detained as "Goondas" as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982, on 08.03.2021 under two detention orders in P.D.Nos.29 and 30 of 2021. They were arrested on 10.02.2021 and the order of detention was passed on 08.03.2021.

4. The only contention of the learned counsel for the petitioner is that there is non-application of mind on the part of the detaining authority inasmuch as the detaining Authority has stated that the detainees' mother is taking steps to get them released on bail.

5. We have carefully perused the entire materials that has been placed before us. We find that no such attempt has been made. The order of detention does not reveal the details of such application for bail allegedly filed by the mother and aunt of the detainees'.

6. In **Selvi Vs. The Secretary to the Government, Home Prohibition and Excise Department, Secretariat, Fort St. George, Chennai - 9 and another (H.C.P.No.1182 of 2019 dated 06.09.2019)** a Division Bench of this Court while considering the similar cases, has held as follows:

"4.On a careful scrutiny of the impugned order, it is seen that the detaining authority, taking into account the real possibility of the detenu being enlarged on bail and the likelihood of the same is prejudicial to the maintenance of public order, has passed the impugned detention order. A close reading of the entire booklet would show that the detaining authority has taken a decision to detain the detenu on the presumption that the relatives of the detenu are taking steps to take him out on bail by filing bail application in the ground case but no particulars have been furnished to that effect. Therefore, the detention order has been passed without any valid material, which shows clear non application of mind on the part of detaining authority in arriving at such conclusion. Thus, for the reasons stated hereinabove, the impugned detention order cannot be sustained."



7. In view of the same, the impugned detention orders are, therefore, liable to be quashed.

8. In the result, these Habeas Corpus Petitions are allowed and the order of detention in P.D.Nos.29 and 30 of 2021 dated 08.03.2021, passed by the second respondent is set aside. The detainees', Guna @ Gunasekar, S/o.Umanath, aged about 24 years and Ragupathi, S/o.Sekar, aged about 24 years, are directed to be released forthwith unless their detention is required in connection with any other case.

Sd/-

Assistant Registrar(AE)

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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,
Fort St. George,
Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Thanjavur District,
Thanjavur.
- 3.The Superintendent of Prison,
Central Prison,
Tiruchirappalli.



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) Nos.532 & 533 of 2021
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TR(28.02.2022) 4P 6C