



WEB COPY

H.C.P.(MD) No.1532 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

and

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

H.C.P. (MD) No.1532 of 2021

K.Chellammal ... Petitioner/Mother in law 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,
Tirunelveli District, Tirunelveli.

3.The Inspector of Police,
Munneerpallam Police Station,
Tirunelveli District,

4.The Superintendent of Prison,
Central Prison, Palayamkottai,
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 entire records pertaining to the Detention Order passed by the second respondent in M.H.S.Confdl.No.104/2021 dated 03.08.2021 and quash the same and consequently set the detenu by name S.Uthiramoorthy @ Moorthy, S/o.Sivanpandi, Male, aged about 43 years, (TPDA No.6702) who is confined at the Central Prison, Palayamkottai, Tirunelveli, at liberty.

For Petitioner : Mr.R.Anand

For Respondents : Mr.T.Senthil Kumar,
Additional Public Prosecutor.

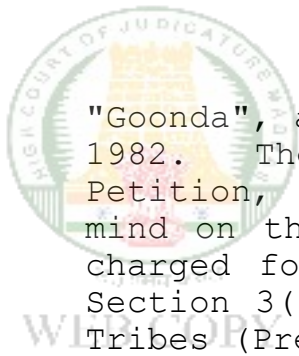
O R D E R

R.SUBRAMANIAN, J.

AND

N.SATHISH KUMAR, J.

The petitioner is the mother-in-law of the detenu, namely, S.Uthiramoorthy @ Moorthy, S/o.Sivanpandi, aged about 43 years. The detenu has been detained by the second respondent by his proceedings in M.H.S.Confdl.No.104/2021 dated 03.08.2021, 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. The detenu has been charged for the offence under Sections 294(b), 506(ii) of IPC and Section 3(1)(r), 3(1)(s), 3(2)(va) of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015.

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. A perusal of the order of detention would show that the detaining authority has proceeded on the fact that the petitioner is likely to be released on bail.

4. The learned counsel for the petitioner would point out that no application for bail is pending and hence, the statement made in the detention order is without non-application of mind on the part of the detaining authority.

5. We are in agreement with the said contention of the learned counsel for the petitioner. The observation in the detention order regarding grant of bail, reveals that it is done in a mechanical manner without application of mind. When no application for grant of bail is pending, the detaining authority has observed that there was a likelihood of the petitioner getting the bail.

6. In view of the above, we are of the view that there is a 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 M.H.S.Confdl.No.104/2021 dated 03.08.2021 passed by the second respondent is set aside. The detenu, namely, S.Uthiramoorthy @ Moorthy, S/o.Sivanpandi, aged about 43 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

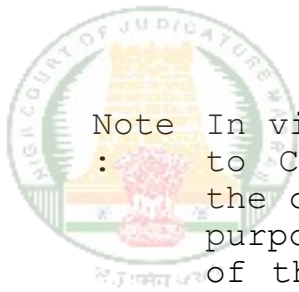
Assistant Registrar(CS-III)

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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,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Tirunelveli District,
Tirunelveli.
- 3.The Inspector of Police,
Munneerpallam Police Station,
Tirunelveli District,
- 4.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli District.
5. The Joint Secretary to Government,
Public (Law & Order), Fort Saint George, Chennai
- 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

H.C.P. (MD) No.1532 of 2021
14.03.2022

TR(24.03.2022) 3P 7C