



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

and

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

H.C.P. (MD) No.1494 of 2021

WEB COPY

Saranya

... Petitioner/Sister of Detenu
Vs.

1.State of Tamil Nadu

Rep. by the Additional Chief Secretary to Government,
Home, Prohibition and Excise (XVI)Department,
Secretariat, Fort St. George,
Chennai - 600 009.

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

3.The Superintendent of Prison,
Central Prison,
Tiruchirappalli.

...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 by the second respondent in Cr.M.P.No.22/2021 dated 04.05.2021 and quash the same as illegal and direct the respondents to produce the body and person of the petitioner's brother/ detenu by name, Ponnambalam, S/o.Rasu, aged about 25 years, resident of Sokkalingapuram, Nedungur Post, Lalgudi Taluk, Trichy District and now detained as "Goonda" at the Central Prison, Tiruchirappalli, before this Court and set him at liberty.

For Petitioner : Mr.P.Ganapathi Subramanian

For Respondents : Mr.A.Thiruvadi Kumar,

Additional Public Prosecutor.

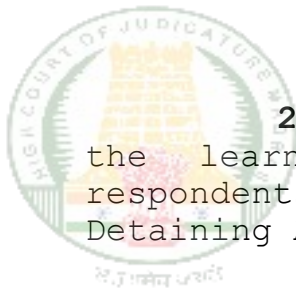
O R D E R

R.SUBRAMANIAN, J.

AND

N.SATHISH KUMAR, J.

The petitioner is the sister of the detenu, namely, Ponnambalam, S/o.Rasu, aged about 25 years. The detenu has been detained by the second respondent by his proceedings in Cr.M.P. No.22/2021 dated 04.05.2021, 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.



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 detaining authority has observed that one Mathan @ Madhankumar @ Manikandan, who is in connection with Crime No.331 of 2014 had filed a bail application before the Thanjavur Principal District and Sessions Judge and he was granted bail on 23.12.2014 in Cr.M.P.No.4654 of 2014 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.

4. 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. The bail normally granted taking into consideration of facts and circumstances of each and every case.

5. 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.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in Cr.M.P.No.22/2021 dated 04.05.2021 passed by the second respondent is set aside. The detenu, namely, Ponnambalam, S/o.Rasu, aged about 25 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar (CSI)

// 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,
Home, Prohibition and Excise (XVI)Department,
Home, Prohibition and Excise Department,
Secretariat, Fort St. George,
Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Tiruchirappalli,
Tiruchirappalli District
- 3.The Superintendent of Prison,
Central Prison,
Tiruchirappalli.
- 4.The Joint Secretary to Government,
Public(Law & order)
Fort.St.George, Chennai -9.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

ORDER MADE IN
H.C.P. (MD) No.1494 of 2021
16.02.2022

PKP/03.03.2022/3P/6C