



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

and

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

H.C.P(MD)No.1648 of 2021

WEB COPY

Ponnusamy

... Petitioner/Father of Detenue
vs.

1.The Additional Chief Secretary to the Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-9.

2.State represented by,
The District Collector and
District Magistrate,
Pudukottai District,
Pudukottai.

3.State represented by,
The Superintendent of Prison,
Central Prison,
Trichy,
Trichy District.

... Respondents

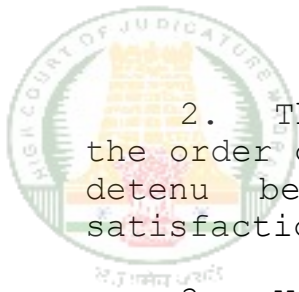
PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the records from the 2nd respondent in P.D.O.No.44/21 dated 31.07.2021 by setting aside the said order of detention passed by the 2nd respondent and setting the detenu Saadhu @ Yogeshwaran S/o.Ponnusamy aged 23, at liberty now detained in the Central Prison, Trichy.

For Petitioner : Mr.G.Mathavan
For Respondents : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

ORDER

R.SUBRAMANIAN, J.
AND
N.SATHISH KUMAR, J.

Challenge in this Habeas Corpus Petition is to the order of detention dated 31.07.2021. The detaining authority has chosen to invoke the provisions of the Act 14 of 1982 and termed the petitioner as Goonda, since he has been charged with offences under Sections 294(b), 323, 506(ii) and 307 IPC.



2. The learned counsel for the petitioner would contend that the order of detention does not disclose the real possibility of the detenu being released on bail and there is no subjective satisfaction to that effect on the part of the detaining authority.

3. We have perused the order of detention. In paragraph 5 of the order of detention, the detaining authority has stated that though a bail petition filed by the detenu in Cr.M.P.No.1950/2021 has been dismissed, further recourse to normal criminal law will not have the desired effect of effectively preventing him from indulging in criminal activities which are prejudicial to the maintenance of public peace and public order. This by itself, in our opinion, would not justified the detention. The detaining authority must have formed a subjective opinion that there is a possibility of the detenu being released on bail by the criminal court. In the absence of such opinion, we are unable to sustain the detention order, since it amounts to non application of mind on the part of the detaining authority.

4. In the result, the Habeas Corpus Petition is allowed and the order of detention in P.D.O.No.44/21 dated 31.07.2021, passed by the second respondent is set aside. The detenu, namely, Saadhu @ Yogeshwaran S/o.Ponnusamy, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

1.The Additional Chief Secretary to the Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-9.

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

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

H.C.P (MD)No.1648 of 2021
30.03.2022

MGJ(12.04.2022) 3P 6C