



WEB COPY

H.C.P.(MD) No.1788 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

and

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

H.C.P. (MD) No.1788 of 2021

Ramayammal

... Petitioner/

Wife of the detenu

Vs.

- 1.The State of Tamilnadu,
Represented by its
Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 600 009.
 - 2.The District Collector & District Magistrate,
of Dindigul District,
Office of the District Collector,
Dindigul,
Dindigul District.
 - 3.The Superintendent of Prison,
Central Prison,
Madurai.
 - 4.The Inspector of Police,
Dindigul Town North Police Station,
Dindigul District.
- ...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the records pertaining to the impugned detention order passed by the second respondent made in his proceedings in detention order No.53 of 2021 dated 28.08.2021 in detaining the detenu under Section 2(f) of the Tamilnadu Act 14 of 1982 as a Goonda and quash the same and direct the respondents to produce the detenu namely Sundarapandiyan, S/o. Perumal, male, aged about 39 years, who is now detained in Central Prison, Madurai before this Honourable Court and set him at liberty.

For Petitioner : Mr.M.Suresh

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 detenu, namely, Sundarapandiyan, S/o. Perumal, aged about 39 years. The detenu has been detained by the second respondent by his proceedings in Detention Order No.53 of 2021 dated 28.08.2021 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.

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 any materials which resulted in non-application of mind on the part of the detaining authority.

4. The detaining authority has observed that one Mallees Murugan, who is in connection with Crime No.572 of 2018 had filed a bail application before the Principal District and Sessions Judge, Dindigul and he was granted bail on 04.02.2019 in Cr.M.P.No.61 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 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 Detention Order No.53 of 2021 dated 28.08.2021 passed by the second respondent is set aside. The detenu,



namely, Sundarapandiyan, S/o. Perumal, aged about 39 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar (Protocol)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

pm

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,
The State of Tamilnadu,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 600 009.

2.The District Collector & District Magistrate,
of Dindigul District,
Office of the District Collector,
Dindigul, Dindigul District.

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

4.The Inspector of Police,
Dindigul Town North Police Station,
Dindigul District.

5.The Joint Secretary to Government,
Public (Law and Order),
Fort. St.George, Chennai-9

6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

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