



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

AND

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

H.C.P. (MD) No.1833 of 2021

WEB COPY

B.Rajarajeshwari

... Petitioner / Wife of Detenu

Vs.

- 1.The State of Tamil Nadu,
Represented by its Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai-600009.
- 2.The District Collector and 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 entire records relating to the detention order passed by the second respondent in Detention Order No.69 of 2021, dated 19.09.2021 in detaining the detenu 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 detenu namely, Balakrishnan @ Balu @ Posu Posu Balu, S/o.Murugesan, Male, aged about 25 years who is now detained in Central Prison, Madurai before this Court and set him at liberty.

For Petitioner : Mr.M.Suresh

For Respondents : Mr.S.Ravi,

Additional Public Prosecutor.

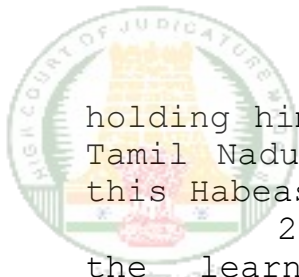
ORDER

R.SUBRAMANIAN, J.

AND

N.SATHISH KUMAR, J.

The petitioner is the wife of the detenu, namely, Balakrishnan @ Balu @ Posu Posu Balu, S/o.Murugesan, aged about 25 years. The detenu has been detained by the second respondent by his proceedings in Detention Order No.69 of 2021, dated 19.09.2021



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 District Principal 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.69 of 2021, dated 19.09.2021 passed by the second respondent is set aside. The detenu, namely, Balakrishnan @ Balu @ Posu Posu Balu, S/o.Murugesan, aged about 25 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

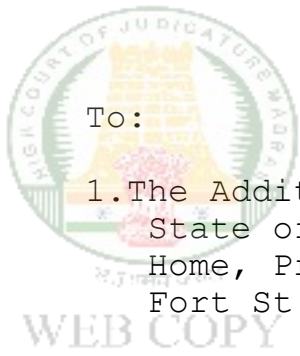
Assistant Registrar (CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Myr



To:

- 1.The Additional Chief Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St.George, Chennai-600009.
- 2.The District Collector and 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 & Order),
Fort saint George, Chennai-600 009.
- 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

H.C.P. (MD) No.1833 of 2021

28.04.2022

_RD(19.05.2022) 3P 7C