



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN  
and  
THE HONOURABLE MR.JUSTICE B.PUGALENDHI

H.C.P (MD) No.139 of 2019

Gurunathan

... Petitioner

Vs.

1.The Principal Secretary to Government,  
State of Tamil Nadu,  
Home, Prohibition and Excise Department,  
Fort St. George,  
Chennai - 600 009.

2.The Commissioner of Police,  
Office of the Commissioner of Police,  
Madurai City, Madurai.

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

... Respondents

Prayer: Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Habeas Corpus, calling for the entire records, connected with the detention order of the Respondent No.2 in No.01/BCDFGISSV/2019 dated 05.01.2019 and quash the same and direct the Respondents to produce the body or person of the detenu by name Arunpandi @ Ammuni, son of Gurunathan, aged about 23 years, now detained at Madurai Central Prison before this Honourable Court and set aside him at liberty forthwith.

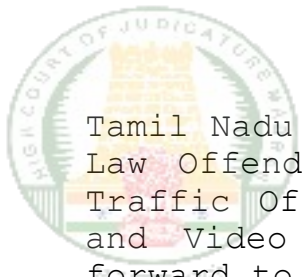
For Petitioner : Dr.R.Alugumani

For Respondents : Mr.K.Dinesh Babu  
Additional Public Prosecutor

### O R D E R

**(Order of the Court was made by M.SATHYANARAYANAN, J.)**

The petitioner is the father of the detenu and challenging the legality of the impugned order of detention dated 05.01.2019 passed by the 2<sup>nd</sup> respondent, in and by which, the detenu has been branded as a Goonda under the provisions of section 3[1] of the



Tamil Nadu Prevention of Dangerous Activities of Boot leggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14/1982), he came forward to file the present habeas corpus petition.

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2. A perusal of the Grounds of Detention dated 05.01.2019, passed by the 2<sup>nd</sup> respondent herein, would disclose among other things that the detenu, viz., Arunpandi @ Ammuni came to the adverse notice in the following four cases:-

Sl. No.	Name of the Police Station and Crime No.	Section of Law
1.	E3 Anna Nagar Police Station Cr.No.1435 of 2016	147, 148, 302 and 506(ii) IPC altered into 147, 148, 302, 506(ii), 120-B IPC r/w 149 IPC
2.	E3 Anna Nagar Police Station Cr.No.452 of 2017	392 r/w 397 and 506(ii) IPC
3.	E3 Anna Nagar (Crime) Police Station Cr.No.171 of 2018	457, 380 and 506(ii) IPC altered into 457, 380, 506(ii), 212, 411 and 397 IPC
4.	E3 Anna Nagar Police Station Cr.No.1542 of 2018	147, 148, 307 and 506(ii) IPC

It is further stated in the grounds of detention that based on the complaint of the defacto complainant viz., Saravanan, E3 Anna Nagar (Crime) Police registered a case in Cr.No.1539 of 2018, for the commission of offence under Sections 394 r/w 397 and 506(ii) I.P.C. (ground case) with regard to the offence that took place at 15.15 hours on 11.11.2018. The detenu was arrested on 15.11.2018 and was produced before the Court of Judicial Magistrate No.VI, Madurai and ordered to be remanded to judicial custody on the same day till 28.11.2018 and the period of remand has been extended till 09.01.2019. The Detaining Authority on being satisfied that the activities of the detenu were prejudicial to the maintenance of the public order and peace, branded him as a Goonda and detained him under the provisions of the Tamil Nadu Act 14 of 1982, by clamping the impugned order of detention and challenging the legality of the same, the present Habeas Corpus Petition is filed.

3.Dr.R.Alagumani, learned counsel appearing on behalf of the detenu has invited the attention of this Court to page Nos.235 to 264 of the booklet supplied to be detenu and would submit that some extraneous materials have been placed before the detaining authority, which is nothing to do either with the ground case or adverse cases and in that regard the detaining authority ought to have sought clarification from the sponsoring authority; however, such clarification has not been sought and having placed reliance on



the extraneous materials also the order of detention was passed and therefore, it is liable to be set aside on the sole ground of non-application of mind and hence, prays for quashment of the impugned order.

4. Per contra, Mr.K.Dinesh Babu, learned Additional Public Prosecutor appearing for the State would submit that on thorough consideration and full application of mind to the materials, the 2nd respondent/Detaining Authority, has rightly clamped the order of detention and hence, prays for dismissal of this petition.

5. This Court has considered the rival submissions and also perused the materials placed before it.

6. A perusal of page Nos.235 to 264 of the booklet supplied to the detenu would disclose that they are extraneous materials and as rightly submitted by the learned counsel appearing for the petitioner it has nothing to do either with the ground case or adverse cases and therefore, it is for the detaining authority to seek clarification from the sponsoring authority and admittedly, the detaining authority has failed to do so. In the considered opinion of this Court, placing of extraneous materials would have influenced the minds of the detaining authority and it would vitiate the impugned order of detention and hence on the sole ground, the impugned order warrants interference.

7. In the result, the Habeas Corpus Petition is allowed by setting aside the Order of Detention passed by the second respondent herein, namely, the Commissioner of Police, Madurai City in No.01/BCDFGISSSV/2019 dated 05.01.2019. Consequently, the detenu, namely, Arunpandi @ Ammuni, son of Gurunathan, aged about 23 years, who is now detained at Central Prison, Madurai is directed to be released forthwith unless his presence [or] custody [or] detention is required in connection with any other case/proceedings.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Principal Secretary to Government,  
State of Tamil Nadu,  
Home, Prohibition and Excise Department,  
Fort St. George,  
Chennai - 600 009.



2.The Commissioner of Police,  
Office of the Commissioner of Police,  
Madurai City, Madurai.

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

4.The Joint Secretary to Government,  
Fort St. George, Chennai - 9

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

H.C.P (MD) No.139 of 2019  
31.07.2019

sj

JMN(21.08.2019) 4P : 6C