

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 28.07.2015

Coram

THE HON'BLE DR.JUSTICE S.TAMILVANAN
and
THE HON'BLE MR.JUSTICE C.T.SELVAM

H.C.P.No.1030/2015

Ravi Selvan Nehru

...Petitioner

-vs-

1. The Secretary of Tamil Nadu
Represented by its Principal Secretary to Government
Home, Prohibition & Excise Department,
Fort St. George,
Chennai-600 009.

2. The District Collector & District Magistrate,
Krishnagiri,
Krishnagiri District.

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Habeas Corpus to call for the records in connection with the order of detention passed by the second respondent in S.C. No.28/2015 dated 13.04.2015 against the detenu namely Prasanna, son of Ravi Selvan Nehru, aged about 24 years, who is now confined at Central Prison, Salem and to set aside the same and to direct the respondents to produce the detenu before this Court and to set him at liberty.

For petitioner : Mr.R.Sankarasubbu

For Respondents : Mr.M.Maharaja,
Addl. Public Prosecutor

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O R D E R
(Order of the Court was made by S.TAMILVANAN,J.)

Challenge is made to the order of detention passed by the second respondent vide Proceedings in S.C. No.28/2015 dated 13.04.2015,

whereby the son of the petitioner by name Prasanna, son of Ravi Selvan Nehru, aged about 24 years, was ordered to be detained under the provisions of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum-grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982) branding him as a "SAND OFFENDER".

2. Though the learned counsel for the petitioner has raised several other grounds to assail the order of detention, he mainly focused his arguments on the ground that non application of mind on the part of the detaining authority. Learned counsel for the petitioner contended that the detenu has been remanded in the ground case in Cr. No.102/2015 on the file of Berigai Police Station for the offence u/s.379 IPC by the Judicial Magistrate I, Hosur and the detenu has moved a bail application in the said case before the Judicial Magistrate I, Hosur in CrI.M.P.No.572/2015 and the same was dismissed on 10.04.2015. Learned counsel for the petitioner further submitted that the detaining authority has made a mention that the detenu has obtained the anticipatory bails in his adverse cases of Sipcot Police Station in Cr.No.707/2012 and Hudco Police Station in Cr.No.165/2015 and therefore, there is a real possibility of the detenu for coming out of bail. Though the details were mentioned in the detaining order i.e. in Cr.No.707/2012 and Cr.No.165/2015, no details were explained in Cr.No.707/2012 in the booklet which was furnished to the detenu and however, he has not furnished relevant materials to the detenu to that effect, which has deprived the detenu in making effective representation to the authorities concerned and therefore, on this sole ground, the detention order is liable to be quashed.

3. Per contra, the learned Additional Public Prosecutor would submit that the order of detention has been passed on cogent and sufficient materials and the same cannot be interfered with at the instance of the petitioner. Therefore, he submits that the Habeas Corpus Petition does not merit any consideration and the same is liable to be dismissed.

4. We have heard the learned Additional Public Prosecutor on the above submission made by the learned counsel for the petitioner.

5. A perusal of the booklet furnished to the detenu would reveal that not a single piece of material, relates to Crime No.707/2012 is furnished to the detenu. This non furnishing of relevant materials in respect of Cr.No.707/2012 to the detenu has deprived him on making

effective representation, which amounts to infringement of right ensured under Article 22(5) of the Constitution of India, would vitiate the order of detention.

6.For the aforesaid reason, the impugned detention order passed by the second respondent is quashed and the Habeas Corpus Petition is allowed. The detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Secretary to Government,
The Secretary of Tamil Nadu,
Home, Prohibition & Excise Department,
Fort St. George, Chennai-600 009.
2. The District Collector & District Magistrate,
Krishnagiri, Krishnagiri District.
3. The Public Prosecutor,
High Court of Madras, Chennai
4. The Superintendent of Central Prison,
Salem.
5. The Joint Secretary to Government,
Public (Law & Order) सत्यमेव जयते
Fort St. George, Chennai - 9.

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MP (CO)
PSI (27.08.2015)