

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2015

CORAM

THE HONOURABLE DR. JUSTICE S.TAMILVANAN
and
THE HONOURABLE MR. JUSTICE C.T.SELVAM

H.C.P.No.1119 of 2015

Loganathan
S/o.Ravichandran

...Petitioner/Brother of Detenu

Vs.

1. The Secretary to Government,
Home, Prohibition & Excise Department,
Fort St.George,
Chennai - 600 009.

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

...Respondents

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 dated 16.04.2015 in BCDFGISSSV No.35/2015 against petitioner's brother, the detenu, Ramki @ Ramachandran @ Tambaram Ramki, S/o.Ravichandran, aged about 28 years, now confined at Central Prison, Vellore and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.A.Nirmal Kumar

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

O R D E R

[Order of the Court was made by S.TAMILVANAN, J.]

Petitioner is the brother of the detenu, who has been branded as a "Goonda" under the Tamil Nadu Act 14 of 1982 and detained under order of the second respondent passed in BCDFGISSSV No.35/2015 dated 16.04.2015.

2. The detenu came to adverse notice in Crime No.44 of 2015 on the file of Magaral Police Station for offences u/s.120(b), 147, 148, 302 IPC r/w 149 IPC. The alleged ground case has been registered against the detenu on 10.02.2015, by the Kanchi Taluk Police Station, in Crime No.141 of 2015 for offences u/s.294(b), 307, 506(ii) IPC r/w 3(i) of Tamil Nadu Property (Prevention of Damage & Loss) Act, 1992. Aggrieved by the order of detention, the present writ petition has been filed.

3. Though many grounds have been raised in the petition, learned counsel for petitioner, confines his argument only in respect of non-application of mind on the part of the detaining authority in passing the order of detention.

4. Learned counsel for petitioner submitted that the detaining authority has been of the view that there is real possibility of the detenu being released on bail since in a similar case bail has been granted. In support of such reasoning, he has relied on an order of bail in a case where the accused has been released on bail not upon merits of the case but owing to his having become statutorily entitled thereto u/s.167(2) Cr.P.C. Therefore, the case treated as similar by the detaining authority merely is not so. Hence, the order of detention suffers from non-application of mind.

5. We have heard learned Additional Public Prosecutor on the above submissions.

6. We find that the order of detention does suffer from non application of mind and for the reasons put forth by learned counsel for petitioner, the order under challenge would have to fall.

Accordingly, the impugned detention order passed by second respondent, detaining the detenu, namely, Ramki @ Ramachandran @ Tambaram Ramki, S/o.Ravichandran, made in BCDFGISSSV No.35/2015 dated

16.04.2015, is quashed and the Habeas Corpus Petition is allowed. The above named detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

gm

To

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

सत्यमेव जयते

H.C.P.No.1119 of 2015

CTK (CO)
PSI (10.09.2015)

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