

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.06.2015

C O R A M

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

H.C.P.No.1131 of 2015

S.M.B.Samu Sahabudeen

...Petitioner

Vs

1. The Commissioner of Police,
Greater Chennai Police,
Egmore, Chennai - 8.
2. The Government of Tamil Nadu
rep. By its Secretary,
Home, Prohibition and Excise Department,
Fort St George, Chennai 600 009.
3. The Superintendent of Central Prison,
Puzhal, Chennai.

...Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Habeas Corpus to call for the records of the first respondent relating to detention order bearing No.BCDFGISSV No.303 of 2015 dated 10.04.2015 issued against the detenu and quash the same and direct the respondents to produce the body of the detenu S.Faizal Rahman, aged about 32 years, son of Samu Sarabudeen (actual name of father is S.M.B.Samu Sahabudeen), now detained in the Central Prison, Puzhal, Chennai - 66 under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum Grabbers and Video Piracy Act, 1982 (Tamil Nadu Act 14 of 1982) before this Court and set him at liberty forthwith.

For Petitioner : Mr.M.Abdul Nazeer

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

ORDER

(Order of the Court was made by S.Tamilvanan,J.)

Challenge is made to the order of detention passed by the first respondent vide BCDFGISSV No.303/2015, dated 10.04.2015, whereby the detenu/son of the petitioner herein, by name, S.Faizal Rahman, Son of Samu @ Samu Sarabudeen, male, aged about 32 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 "VIDEO PIRATOR".

2.Though many grounds have been raised in the petition, Mr.M.Abdul Nazeer, the learned counsel for the petitioner has assailed the impugned detention order only on the ground that the order of detention has been passed on 10.04.2015 and the remand extension order dated 09.04.2015 in the third adverse case in Crime No.115 of 2015, extending the remand of the detenu till 20.04.2015, has not been made available to the detaining authority at the time of clamping the order. Therefore, the subjective satisfaction arrived at by the detaining authority that there is likelihood of the detenu coming out on bail in the said case, which has affected the constitutional right of making an effective and purposeful representation to the authorities concerned, vitiates the detention order.

3.Per contra, Mr.M.Maharaja, the learned Additional Public Prosecutor would submit that the impugned detention order has been passed on cogent and sufficient materials and there is no illegality or infirmity in the impugned order of detention. However, he submitted that the copy of the remand extension order dated 09.04.2015 in the third adverse case in Crime No.115 of 2015 has been made ready only on 13.04.2015 and therefore, it is highly impossible to place the said order before the detaining authority on the date of passing the detention order.

4.We have given our careful and anxious consideration to the rival submissions put forward by the learned counsel on either side and thoroughly scanned through the impugned detention order and the entire materials available on record.

5.By perusal of the booklet, particularly page no.65, it is seen that the remand of the detenu in the third adverse case in Crime No.115 of 2015 has been extended till 20.04.2015 and the order copy

was made ready only on 13.04.2015. Therefore, the subjective satisfaction arrived at by the detaining authority that the detenu was likely to be released on bail in the said case also is not supported by material and this vitiates the impugned detention order. Hence the impugned order of detention is liable to be quashed.

6. In the result, this Habeas Corpus Petition is allowed. The impugned detention order is set aside. The detenu is directed to be released forthwith, unless his presence is required in connection with any other case.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner of Police,
Greater Chennai Police,
Egmore, Chennai - 8.
2. The Government of Tamil Nadu
rep. By its Secretary,
Home, Prohibition and Excise Department,
Fort St George, Chennai 600 009.
3. The Superintendent of Central Prison,
Puzhal, Chennai.
4. The Public Prosecutor,
High Court, Madras.
5. The Joint Secretary to Government,
Public (Law & Order)
Fort St. George, Chennai - 9.

1 CC to Mr.M.Abdul Nazeer, Advocate SR.No. 29617

H.C.P.No.1131 of 2015

PUR (CO)

PSI (07.07.2015)