

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2015

CORAM:

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

H.C.P.No.1181 of 2015

Parimala

... Petitioner

Vs

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

2. The Commissioner of Police/Detaining Authority,
Coimbatore City,
Coimbatore.

.... Respondents

Prayer:- This Habeas Corpus Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus to call for the entire records relating to the petitioner's son detention under Tamil Nadu Act 14 of 1982 vide detention order dated 25.04.2015 on the file of the second respondent herein made in Proceedings Memo C.No.21/G/IS/2015, quash the same as illegal and consequently direct the respondents herein to produce the petitioner's son namely D.Vinoth @ Aavi Vinoth, S/o.Duraiaraj, aged 30 years before this Court and set the petitioner's son at liberty from detention, now the petitioner's son detained at Central Prison, Coimbatore.

For Petitioner : Mr.W.Camyles Gandhi

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

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

Petitioner is the mother of the detenu, who has been branded as a "Goonda" under the Tamil Nadu Act 14 of 1982 and detained under orders of the second respondent passed in C.No.21/G/IS/2015 dated 25.04.2015.

2. The detenu came to adverse notice in the following cases:-

Sr.No.	Police Station and Crime No.	Sections of Law
1.	Coimbatore City B7 Ramanthapuram Police Station, Crime No.121/2014	302 IPC
2.	Coimbatore City B7 Ramanthapuram Police Station, Crime No.124/2014	294(b) and 307 IPC

The alleged ground case has been registered against the detenu by the Sub-Inspector of Police, Law and Order, B7 Ramanathapuram Police Station, in Crime No.169 of 2015 for offences under sections 392 r/w. 397 and 506(ii) IPC. Aggrieved by the order of detention, the present writ petition has been filed.

3. Amidst several grounds raised, learned counsel for petitioner submits that the detenu was in remand in the ground case [Cr.No.169/2015] registered by B7 Ramanathapuram Police Station and the bail application filed by the detenu in C.M.P.No.1037/2015 before the learned Principal District and Sessions Judge, Coimbatore was dismissed. Another bail application filed by the detenu in CrI.O.P.No.10185/2015 before this Court is pending as on the date of passing of the detention order. But the detaining authority in order to arrive at the subjective satisfaction that the detenu would be released on bail by this Court, relied upon the similar case registered by B15 Rathinapuri Police Station in Cr.No.638/2012 for the offence u/s. 392 r/w. 397 and 506(ii) IPC, wherein bail was granted by the learned Principal District and Sessions Judge, Coimbatore in C.M.P.No.1928/2013. Hence, the impugned order suffers from non-application of mind.

4. We have heard learned Additional Public Prosecutor on the above submissions and also perused the records.

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

Accordingly, the impugned detention order passed by the second respondent, detaining the detenu, namely, D.Vinoth @ Aavi Vinoth, S/o.Durairaj, made in C.No.21/G/IS/2015 dated 25.04.2015,

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(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Fort St. George, Chennai-600 009.
2. The Commissioner of Police/Detaining Authority,
Coimbatore City,
Coimbatore.
3. The Public Prosecutor,
High Court, Chennai.
4. The Superintendent,
Central Prison,
Coimbatore.
5. The Joint Secretary to Government,
Public(Law & Order),
Fort Saint George, Chennai - 9.

सत्यमेव जयते

H.C.P.No.1181 of 2015

KSJ(CO)
CA(18/09/2015)

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