

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.08.2015

CORAM

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

H.C.P.No.1310 of 2015

S.Sathya Petitioner

vs.

- 1.The State represented by its
The Secretary to Government (Home),
Prohibition and Excise Department,
Government of Tamil Nadu,
Fort St.George, Chennai - 9.
- 2.The Commissioner of Police,
Salem City, Salem. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus to call for the records pertaining to the order of detention dated 27.04.2015 passed by the second respondent in C.M.P.No.34/Goonda/Salem City/2015 and quash the same and produce the detenu, Sakthikumar, aged about 28 years, S/o.Munusamy, before this Court and set him at liberty, the detenu now confined in Central Prison, Salem.

For Petitioner : Mr.S.Manoharan
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 wife of the detenu, Sakthikumar S/o.Munusamy, who has been branded as "Goonda" under the Tamil Nadu Act 14 of 1982 and detained under order of the second respondent passed in C.M.P.No.34/Goonda/ Salem City/2015 dated 27.04.2015.

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

Sl.No.	Police Station and Crime No.	Sections of Law
1	Kannankurichi Police Station, Crime No.438 of 2014	341, 302 and 506(ii) IPC
2	Kannankurichi Police Station, Crime No.91 of 2015	294(b) and 506(ii) IPC

The alleged ground case has been registered against the detenu on by the Inspector of Police, Kannankurichi Police Station, in Crime No.92 of 2015 for offence u/s.392 r/w 397, 506(ii) IPC. 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. Learned counsel 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 granted by learned Principal Sessions Judge, Salem, in C.M.P.No.3972 of 2014. In such case the accused were granted bail only after 38 days, 36 days and 35 days respectively of their arrest, whereas in the ground case, on the date of passing the detention order, the detenu had been in custody only for 21 days. 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.

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

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 Habeas Corpus Petition is allowed and the order of detention passed against the detenu viz., Sakthikumar S/o.Munusamy, by the second respondent in C.M.P.No.34/Goonda/ Salem City/2015 dated 27.04.2015, is quashed. The detenu is directed to be set at liberty, forthwith, unless his presence is required in connection with any other case.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

cse

To

1. The Secretary to Government (Home),
Prohibition and Excise Department,
Government of Tamil Nadu,
Fort St.George, Chennai - 9.

2.The Commissioner of Police,
Salem City, Salem.

3.The Superintendent of Central Prison,
Salem.

4.The Joint Secretary to Government
Public (Law & Order)
Fort St.George, Chennai-9

5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.1310 of 2015

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