

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.1311 of 2015

M.Manivannan
S/o.Muniappan

.. Petitioner

Vs.

The State represented by its

1.The Secretary to Government (Home),
Prohibition and Excise Department,
Government of Tamilnadu,
Fort St.George,
Chennai - 600 009.

2.The District Magistrate and
District Collector,
Salem District,
Salem.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Habeas Corpus to call for the records pertaining to the order of detention dated 11.04.2015 passed by the second respondent in C.M.P.No.15/Sexual Offender/C2/2015 and quash the same and produce the detenu, Muniappan, aged about 49 years, S/o.Vaiyapuri before this Court and set him at liberty, the detenu now confined at 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 father of the detenu, who has been branded as a "Sexual Offender" under the Tamil Nadu Act 14 of 1982 and detained under order of the second respondent passed in C.M.P.No.15/Sexual Offender/C2/2015 dated 11.04.2015.

2. The alleged ground case has been registered against the detenu on 22.01.2015, by the Sub-Inspector of Police, Karippatty Police Station, in Crime No.51 of 2015 initially under section 'Girl Missing' and subsequently, it was altered to reflect offences u/s.366, 376, 302, 201 IPC & 6 of POCSO Act. 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, Muniappan S/o.Vaiyapuri, made in C.M.P.No.15/Sexual Offender/C2/2015 dated 11.04.2015, 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.

सत्यमेव जयते

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gm

To

- 1.The Secretary to Government (Home),
Prohibition and Excise Department,
Government of Tamilnadu,
Fort St.George,
Chennai - 600 009.
- 2.The District Magistrate and District Collector,
Salem District,
Salem.
- 3.The Public Prosecutor,
High Court, Madras.
- 4.The Superintendent of Central Prison
Salem.(Induplicate for communication to detenu)
4. The Joint Secretary to Government Public
(Law & order), Fort St. George, Chennai. 600 009.

H.C.P.No.1311 of 2015

TS (CO)
Eu 16.09.15



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