

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.09.2015

C O R A M

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

AND

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Habeas Corpus Petition No.1419 of 2015

K.Nagappan,
S/o.Kanniyappan

... Petitioner/Detenu

-vs-

1.The State represented by its
Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600 009.

2.The Commissioner of Police,
Chennai Police,
Chennai.

... Respondents

Writ petition under Article 226 of the Constitution of India filed praying for issuance of a writ of Habeas Corpus to call for the records pertaining to detention order passed by second respondent against the detenu Nagappan, Male, aged about 32 years, S/o.Kanniyappan, now kept in Central Prison NO.II, Puzhal, Chennai-66 in BCDFGISSSV No.387 of 2015 dated 09.05.2015, quash the same and consequently, to direct the respondent to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.S.Nambirajan

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

O R D E R

(The order of the Court was made by C.T.SELVAM, J.)

Petitioner/detenu has been branded as "Goonda" under the Tamil Nadu Act 14 of 1982 and detained under order of the second respondent passed in BCDFGISSSV No.387 of 2015 dated 09.05.2015. Such order is under challenge herein.

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

Sl.No.	Police Station and Crime No.	Sections of Law
1	R-1 Mambalam Police Station, Crime No.2008 of 2014	379 IPC
2	R-1 Mambalam Police Station, Crime No.10 of 2015	379 IPC
3	R-2 Kodambakkam Police Station, Crime No.472 of 2015	420 IPC
4	R-1 Mambalam Police Station, Crime No.1710 of 2015	420, 380 IPC

The ground case has been registered against the detenu in Crime No.1711 of 2015 on the file of R-1 Mambalam Police Station for offences u/s.341, 294(b), 323, 336, 427, 392, 397 and 506(ii) IPC.

3. Amidst several grounds raised, learned counsel for petitioner submits that towards informing the possibility of the detenu being released on bail, an order of bail passed by learned V Metropolitan Magistrate, Egmore, Chennai, in CrI.M.P.Nos.1259 and 1364 of 2012, on 21.02.2012, in connection with the case in Crime No.1062 of 2011 on the file of P-3 Vysarpadi Police Station, for offences u/s.457 and 380 IPC, has been referred to by the detaining authority. The order copy therein has been furnished to the detenu, but the bail application in such case has not been furnished and that the same adversely has affected the detenu's right of making an effective representation.

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

5. Non furnishing of relevant documents would deprive the detenu the opportunity of making effective representation to the authorities concerned. The same amounts to infringement of right enshrined under Article 22(5) of the Constitution of India and would vitiate the order of detention. For the aforesaid reason, this Court would allow the present petition.

This Habeas Corpus Petition is allowed. The impugned order passed by second respondent against the detenu Nagappan, S/o.Kanniyappan, made in BCDFGISSSV No.387 of 2015 dated 09.05.2015, is quashed. The detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

-s/d-

Assistant Registrar(CSIII)
dt:08/10/2015

True Copy

Sub-Assistant Registrar

gm

To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600 009.
- 2.The Commissioner of Police,
Chennai Police,
Chennai.
- 3.The Superintendent of Central Prison,
Puzhal, Chennai.
- 4.The Joint Secretary to Government,
Public Law and Order, Fort St.George,
Chennai-9
- 5.The Public Prosecutor
High Court, Chennai.

सत्यमेव जयते

H.C.P.No.1419 of 2015

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