

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.10.2015

C O R A M

THE HONOURABLE MR.JUSTICE C.T.SELVAM

AND

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

Habeas Corpus Petition No.1664 of 2015

P.Revathy

W/o.Prabhakaran

... Petitioner

-vs-

- 1.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
- 2.The District Magistrate and
the District Collector,
O/o.The District Magistrate
and District Collector,
Salem District.
- 3.The Inspector of Police,
Edappady Police Station,
Salem District.
- 4.The Superintendent of Police,
Salem Central Prison, Salem District. ... Respondents

Writ petition under Article 226 of the Constitution of India filed praying for issuance of a writ of Habeas Corpus calling for the records connected with the detention order in C.M.P. No.25/Goonda/C2/2015 dated 04.06.2015 on the file of the second respondent and quash the same as illegal and direct the respondents to produce the body and person of the petitioner's husband namely Prabhakaran, S/o.Govindan, aged about 24 years, now confined at Central Prison, Salem, before this Court and set him at liberty forthwith.

For Petitioner : Mr.S.M.A.Jinnah
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 is the wife of the detenu Prabakaran, S/o.Govindan, who has been branded as "Goonda" under the Tamil Nadu Act 14 of 1982 and detained under orders of second respondent passed in C.M.P. No.25/Goonda/C2/2015 dated 04.06.2015. Such order is under challenge herein.

2.The detenu came to adverse notice in case registered in Crime No.129 of 2014 Aaviyur Police Station, Virudhunagar District, for offence under Section 398 IPC r/w.5 of Explosive Substances Act, 1908. The ground case has been registered against the detenu in Crime No.160 of 2015 on the file of Edappady Police Station for offences u/s.392 r/w.397, 506(ii) IPC.

3.Amidst several grounds raised, learned counsel for petitioner submits that the detaining authority in para 4 of grounds of detention towards arriving at the subjective satisfaction that there was possibility of the detenu being released on bail, has relied on an order of bail passed by this Court and not the order of bail passed by a Court of first instance. Further, though the detaining authority has considered the position that bail application of the detenu in the ground case has been dismissed, the detaining authority has informed the possibility of his coming out on bail by filing another bail application. In support of such inference, there absolutely is no material. It is, therefore, submitted that the detaining authority has arrived at subjective satisfaction without entering upon objective consideration.

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

5.We find that there absolutely is no material to support the finding of the detaining authority that there is possibility of the detenu coming out on bail in the ground case, by filing another bail application. Therefore, non-application of mind and erroneous subjective satisfaction arrived at by the detaining authority is apparent.

This Habeas Corpus Petition is allowed. The impugned order passed by second respondent against the detenu Prabakaran, S/o.Govindan, made in C.M.P. No.25/Goonda/C2/2015 dated 04.06.2015, is quashed. The detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

-Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

vga

To

- 1.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
- 2.The District Magistrate and
the District Collector,
O/o.The District Magistrate
and District Collector,
Salem District.
- 3.The Inspector of Police,
Edappady Police Station,
Salem District.
- 4.The Superintendent of Police,
Salem Central Prison, Salem District.
- 5.The Public Prosecutor
High Court, Chennai.
- 6.The Joint Secretary to Government
Public Law & Order Fort St.George,
Chennai-9

+1 cc to Mr.S.M.A. Jinnah, Advocate sr.55712

H.C.P.No.1664 of 2015

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