

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.08.2015

CORAM:

THE HONOURABLE DR.JUSTICE S.TAMILVANAN
AND

THE HONOURABLE MR.JUSTICE C.T.SELVAM

H.C.P.No.1675 of 2015

S.Moorthy
S/o.Subramani

.. Petitioner

Vs

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

2.The Commissioner of Police,
Chennai Police,
Office of the Commissioner of Police,
(Goondas Section),
Vepery, Chennai-8.

.. 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 records in connection with the order of detention passed by the second respondent dated 16.12.2014 in Memo.No.2198/BCDFGISSV/2014 against the petitioner's son, Shankar @ Jaishankar, son of Moorthy, aged about 31 years, who is confined at Central Prison, Puzhal, Chennai and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner सत्यमेव जयते : Mr.V.Paarthiban

For Respondents : Mr.M.Maharaja, APP

WEB COPY
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 "Goonda" under the Tamil Nadu Act 14 of 1982 and detained under orders of the second respondent passed in Memo.No.2198/BCDFGISSV/2014 dated 16.12.2014.

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

Sr.No.	Police Station and Crime No.	Sections of Law
1.	M6 Manali Police Station, Crime No.278 of 2012	408 @ 381 r/w 414 IPC
2.	M1 Madhavaram Police Station, Crime No.3017 of 2012	379 IPC
3.	V7 Nolambur Police Station, Crime No.2143 of 2013	379 IPC
4.	V7 Nolambur Police Station, Crime No.2166 of 2014	379 IPC

The alleged ground case has been registered against the detenu on 03.12.2014, by the Inspector of Police, Law and Order, V7 Nolambur Police Station, in Crime No.2539 of 2014 for offences under sections 341, 323, 294(b), 336, 427, 307 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 detaining authority while noticing that the detenu stands remanded to judicial custody in case registered in Crime No.2539 of 2014 on the file of V7 Nolambur Police Station for offences under sections 341, 323, 294(b), 336, 427, 307 and 506(ii) IPC, had informed that the detenu has not filed any bail petition in the said case. However, the detaining authority had informed that the Sponsoring Authority had stated that the relatives of the detenu were taking efforts to move application to take him out on bail in the ground case. However, in the report of the sponsoring authority, he has clearly stated that no bail application has been filed on behalf of the detenu. 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, Shankar @ Jaishankar, S/o.Moorthy, made in Memo.No.2198/BCDFGISSV/2014 dated 16.12.2014, 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/-

Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

gm

To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.
- 2.The Commissioner of Police,
Chennai Police,
Office of the Commissioner of Police,
(Goondas Section)
Vepery, Chennai-8
- 3.The Public Prosecutor,
High Court, Chennai.
- 4.The Joint Secretary to Government
Public Law & Order,
Fort St.George, Chennai-9
- 5.The Superintendent,
Central Prison, Puzhal,
Chennai

H.C.P.No.1675 of 2015

aa19/08/2015