

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.1707 of 2015

Koteeswari
W/o.Prakash @ Mokka Kathi Prakash ... Petitioner

-vs-

- 1.The Commissioner of Police,
Chennai Police,
Chennai.
- 2.The Secretary to Government,
Home, Prohibition and
Excise Department,
Secretariat, Chennai - 600 009. ... Respondents

Writ petition under Article 226 of the Constitution of India filed praying for issuance of a writ of Habeas Corpus to direct the respondents to produce the body of the detenu, the husband of the petitioner, by name, Prakash @ Mokka Kathi Prakash, S/o.Douglas, aged about 51 years, now detained in Central Prison, Puzhal, under Act 14/1982 vide detention order BCDFGISSSV No.510/2015 dated 30.06.2015 on the file of the first respondent and call for the records in connection with the detention order and set aside the same and set the detenu at liberty.

For Petitioner : Mr.V.Senthil Murugan

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 Prakash @ Mokka Kathi Prakash, S/o.Douglas, who has been branded as "Goonda" under the Tamil Nadu Act 14 of 1982 and detained under orders

of first respondent passed in BCDFGISSSV No.510/2015 dated 30.06.2015. Such order is under challenge herein.

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

S1.No.	Police Station and Crime No.	Sections of Law
1	G-5 Secretariat Colony Police Station, Crime No.1098 of 2010	8 (c) r/w.20(b) (ii) NDPS Act
2	J-8 Neelankarai Police Station, Crime No.1214 of 2015	294(b), 324, 506(i) IPC
3	J-8 Neelankarai Police Station, Crime No.1405 of 2015	324, 506(ii) IPC

The ground case has been registered against the detenu in Crime No.1834 of 2015 on the file of J-8 Neelankarai Police Station for offences u/s.294(b), 341, 427, 336, 324, 307 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 Principal Sessions Judge, Chennai, in Crl.M.P.No.10992 of 2011, on 12.10.2011, in connection with the case in Crime No.1640 of 2011 on the file of V-5 Thirumangalam Police Station, for offences u/s.294(b), 341, 336, 307, 397 and 506 (ii) 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 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 Prakash @ Mokka Kathi Prakash, S/o.Douglas, made in BCDFGISSSV No.510/2015 dated 30.06.2015, is quashed. The detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

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

H.C.P.No.1707 of 2015

NM(CO)
EU 27.10.15

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