

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.1710 of 2015

Gunasundari
W/o.Nagaraj

.. Petitioner

Vs

- 1.The State of Tamilnadu,
Rep by its Secretary to Government,
Prohibition and Excise Department, (Home)
Secretariat, Chennai-600 009.
- 2.The Commissioner of Police,
Chennai City, Vepery, Chennai-600 007. .. 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 relating to the detenu's detention order passed by the second respondent dated 30.03.2015 in No.287/BCDFGISSSV/2015 and set aside the same and produce the detenu Nagaraj, male, aged about 32 years, Son of Krishnamurthy, now detained in Central Prison-II, Puzhal, Chennai.

For Petitioner : Mr.S.Elan Kumaran

For Respondents : Mr.M.Maharaja, APP

O R D E R

[Order of the Court was made by S.TAMILVANAN, J.]

Petitioner is the wife of the detenu, who has been branded as a "Goonda" under the Tamil Nadu Act 14 of 1982 and detained under order of the second respondent passed in BCDFGISSSV No.287/2015 dated 30.03.2015.

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

Sl.No.	Police Station and Crime No.	Sections of Law
1	B-4 Sevvapet Police Station, Crime No.307 of 2014	302, 109 @ 147, 148, 341, 302, 120(b) r/w 109 IPC

The alleged ground case has been registered against the detenu on 17.10.2014, by the Inspector of Police, Law and Order, M-2 Madhavaram Milk Colony Police Station, in Crime No.1659 of 2014 for offences under Sections 341, 294(b), 427, 336, 392 r/w 397 and 506(ii) IPC. Aggrieved by the order of detention, the present writ petition has been filed.

3. Though many grounds have been raised in the petition, the learned counsel appearing for the 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. Though the detaining authority has informed of the relatives of the detenu taking steps towards moving a bail application on his behalf, there is no material in support there regards. This according to the learned counsel appearing for the petitioner is bereft of particulars without cogent materials, which vitiates the impugned order of detention.

4. Per contra, the learned Additional Public Prosecutor would submit that the impugned detention order has been passed on cogent and sufficient materials and there is no illegality or infirmity in the impugned order of detention.

5. We have given our careful and anxious consideration to the rival submissions put forward by the learned counsel on either side and thoroughly scanned through the impugned detention order and the entire materials available on record.

6. It is seen that though the detaining authority has informed of the relatives of the detenu taking steps towards moving a bail application on his behalf, there is no material in support there regards. If that be so, the subjective satisfaction arrived at by the detaining authority that there is a possibility of his coming out on bail would be a mere ipse dixit and that would vitiate the order of detention. Therefore, the detention order suffers from infirmity and illegality warranting interference by this Court. This order is made only towards setting aside the order of detention passed against the detenu herein. Any bail applications moved by the detenu in the ground case or in the adverse case, necessarily would have to be considered by the Court concerned solely on merits uninfluenced by the order of this Court.

Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order against the detenu Nagaraj S/o.Krishnamurthy passed by the second respondent in BCDFGISSSV No.287/2015 dated 30.03.2015, is set aside. The detenu is directed to be released forthwith unless his presence 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,
The State of Tamilnadu,
Prohibition and Excise Department, (Home)
Secretariat, Chennai-600 009.
- 2.The Commissioner of Police,
Chennai City, Vepery, Chennai-600 007.
- 3.The Public Prosecutor,
High Court, Chennai.
- 4.The Superintendent,
Central Prison, Puzhal, Chennai
- 5.The Joint Secretary to Government
Public Law & Order, Fort St.George
Chennai-9

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