

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.1741 of 2015

Meera
D/o.Raju

... Petitioner

-Vs-

1. Government of Tamil Nadu,
rep. by its Principal Secretary,
Home, Prohibition and Excise (XVI) Department,
Fort St. George, Chennai - 600 009.

2. The Commissioner of Police,
Tiruppur City.

... 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 in C.No.30/G/IS/TPR @/2015 dated 16.06.2015 on the file of the second respondent herein and quash the same and direct the respondents herein to produce the body of the petitioner's brother R.Kandasamy, son of Raju, aged 35 years, now confined in Central Prison, Coimbatore, before this Court and to set him at liberty.

For Petitioner : Mr.R.Subhadra Devi

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 sister of the detenu R.Kandasamy, son of Raju, who has been branded as "Goonda" under the Tamil Nadu Act 14 of 1982 and detained under orders of second respondent passed in C.No.30/G/IS/TPR @/2015 dated 16.06.2015. 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	Tiruppur City, North Police Station, Crime No.1106 of 2014	379 IPC
2	Tiruppur City, North Police Station, Crime No.1288 of 2014	379 IPC
3	Tiruppur City, North Police Station, Crime No.201 of 2015	379 IPC
4	Tiruppur City, North Police Station, Crime No.325 of 2015	379 IPC
5	Tiruppur City, North Police Station, Crime No.435 of 2015	379 IPC
6	Tiruppur City, North Police Station, Crime No.499 of 2015	379 IPC

The ground case has been registered against the detenu in Crime No.505 of 2015 on the file of Tiruppur City, North Police Station for offences u/s.392 r/w.397 IPC.

3. Learned counsel for petitioner submitted that the detenu has been arrested both in the ground case as also in all adverse cases on 23.06.2015. The detaining authority took note of the fact that the bail applications filed by the detenu both in the ground case as also in the adverse cases were pending as on the date of passing of the detention order. However, the detaining authority has gone on to inform that there is possibility of the detenu coming out on bail since in a similar case bail stood granted by learned Principal District and Sessions Judge, Coimbatore, in Cr.M.P.No.1928 of 2013 in connection with the case in Crime No.638 of 2012 on the file of B15 Rathinapuri Police Station for offences u/s.392 r/w 397 and 506(ii) IPC. The non-application of mind on the part of the detaining authority is apparent since in the case treated as similar by him, no offence u/s.379 IPC was alleged whereas in the adverse cases, offence u/s.379 IPC was alleged. Hence, the subjective satisfaction arrived at by the detaining authority is without objective consideration.

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

5. Finding that non-application of mind on the part of the detaining authority is apparent and for the reasons put forth by learned counsel for petitioner, the order under challenge would have to fall.

This Habeas Corpus Petition is allowed. The impugned order passed by second respondent against the detenu R.Kandasamy, son of Raju, made in C.No.30/G/IS/TPR @/2015 dated 16.06.2015, 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 VII)

//True Copy//

Sub Assistant Registrar

vga

To

1. The Principal Secretary to the Government of TamilNadu, Home, Prohibition and Excise (XVI) Department, Fort St. George, Chennai - 600 009.
2. The Commissioner of Police, Tiruppur City.
3. The Superintendent of Central Prison, Coimbatore.
4. The Joint Secretary to Government, Public(Law & Order), Fort Saint George, Chennai - 9.
5. The Public Prosecutor High Court, Chennai.

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H.C.P.No.1741 of 2015

NM(CO)
CA(19/11/2015)