

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.10.2015

C O R A M

THE HONOURABLE MR.JUSTICE C.T.SELVAM
AND
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

Habeas Corpus Petition No.1748 of 2015

Mary
W/o.Devadoss

...Petitioner

-vs-

1. State of Tamil Nadu
represented by its
Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 600 009.

2. The Commissioner of Police,
Vepery,
Chennai - 600 007.

...Respondents

Writ petition under Article 226 of the Constitution of India filed praying for issuance of a writ of Habeas Corpus to call for the records pertaining to detention order passed by second respondent against the detenu Viky (a) Vigneswaran S/o.Devadoss, aged about 27 years, in Memo No.477/BCDFGIISSSV/2015 dated 20.06.2015, quash the same and consequently, to direct the respondents to produce the detenu, who is at present confined at Central Prison, Vellore, before this Court and set him at liberty.

For Petitioner : Mr.C.C.Chellappan

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 mother of the detenu Viky (a) Vigneswaran S/o.Devadoss, who has been branded as "Goonda" under the Tamil Nadu Act 14 of 1982 and detained under orders of second respondent passed in Memo No.477/BCDFGISSSV/2015 dated 20.06.2015. Such order is under challenge herein.

2. The detenu came to adverse notice in Crime No.525 of 2015 on the file of T-13 Kundrathur Police Station for offences u/s.341, 302, 506(ii) IPC @ 341, 120(b), 302, 506(ii) IPC. The ground case has been registered against the detenu in Crime No.526 of 2015 on the file of T-13 Kundrathur Police Station for offences u/s.341, 294(b), 336, 427, 397 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, order of bail passed by learned Principal Sessions Judge, Thiruvallur, in CrI.M.P.No.712 of 2012 in connection with the case in Crime No.464 of 2012 on the file of T-1 Ambattur Police Station for offences u/s.341, 294(b), 336, 427, 392, 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 have 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.

6. This Habeas Corpus Petition is allowed. The detention order passed by second respondent against the detenu Viky (a) Vigneswaran S/o.Devadoss, made in Memo No.477/BCDFGISSSV/2015 dated 20.06.2015, is quashed. The detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

The present order is only for the purpose of disposal of this petition and shall not have any bearing upon connected criminal cases pending before the competent Court.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

gm

To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
2. The Commissioner of Police,
Vepery, Chennai - 600 007.
3. The Public Prosecutor
High Court, Chennai.
4. The Superintendent of Central Prison,
Vellore.
5. The Joint Secretary to Government,
Public (Law & Order)
Fort St. George, Chennai - 9.

सत्यमेव जयते

H.C.P.No.1748 of 2015

AK (CO)
PSI (30.10.2015)

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