

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2015

CORAM

THE HONOURABLE DR.JUSTICE S.TAMILVANAN
and
THE HONOURABLE MR.JUSTICE C.T.SELVAM

H.C.P.No.1749 of 2015

Santhanabarathi
S/o.Bramma Nayagam

.. 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,
Chennai Police,
Chennai - 600 008.

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus to call for the records pertaining to detention order passed by second respondent in BCDFGISSSV No.426 of 2015 dated 31.05.2015 against the detenu Santhanabarathi S/o.Brammanayagam, aged 37, quash the same and consequently, direct the respondents to produce the detenu, who is confined at Central Prison, Puzhal, Chennai, before this Court and set him at liberty.

For Petitioner : Mr.C.C.Chellappan

For Respondents : Mr.M.Maharaja
Additional Public Prosecutor

ORDER

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

Petitioner/detenu Santhanabarathi S/o.Brammanayagam has been branded as a "Goonda" under the Tamil Nadu Act 14 of 1982 and detained under under T.N.Act 14 of 1982 detention orders of second respondent passed in BCDFGISSSV No.426 of 2015 dated 31.05.2015. Such order is under challenge herein.

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

Sl No.	Name of the Police station and Crime No.	Section of law
1.	B-2 Thiruvalluvar Taluk Police Station, Crime No.16 of 2014	380 IPC
2.	T-6 Avadi Police Station, Crime No.1593 of 2014	379 IPC
3.	T-10 Thirumullaivoyal Police Station, Crime No.1670 of 2014	457, 380 IPC
4.	T-10 Thirumullaivoyal Police Station, Crime No.172 of 2015	457, 380 IPC
5.	R-9 Valasaravakkam Police Station, Crime No.327 of 2015	380 IPC
6.	T-6 Avadi Police Station, Crime No.203 of 2015	379 IPC
7.	T-10 Thirumullaivoyal Police Station, Crime No.177 of 2015	379 IPC
8.	T-9 Pattabiram Police Station, Crime No.182 of 2015	379 IPC
9.	T-6 Avadi Police Station, Crime No.348 of 2015	379 IPC

The ground case has been registered against the detenu in Crime No.357 of 2015 on the file of T-6 Avadi Police Station for offences under Sections 341, 294(b), 323, 336, 427, 392, 397 r/w 506(ii) IPC.

3. Though many grounds have been raised in the petition, learned counsel for petitioner has assailed the detention order only on the ground of non-supply of copy of the bail applications and orders in the similar cases, referred to in the grounds of detention, for arriving at the subjective satisfaction that there is likelihood of the detenu coming out on bail, which has affected the constitutional right of making an effective and purposeful representation to the authorities concerned, thereby vitiating the detention.

4. Per contra, learned Additional Public Prosecutor would submit that the detention order has been passed on cogent and sufficient materials and there is no illegality or infirmity in the impugned order of detention. However, he submitted that the copy of the bail applications and orders in the similar cases, referred to in the grounds of detention were not supplied to the detenu.

5. We have given our careful and anxious consideration to the rival submissions put forward by learned counsel on either side and perused the entire materials available on record.

6. It is seen from paragraph 4 of the Grounds of Detention that in similar cases, viz., Crime No.1677 of 2012 on the file of T-6 Avadi Police Station for offence u/s.379 IPC and Crime No.1960 of 2012 on the file of T-1 Ambattur Police Station for offence u/s.341, 294(b), 336, 427, 392, 397 and 506(ii) IPC, the accused were released on bail. On a perusal of the Booklet furnished by the Prosecution, it is seen that it does not contain the copy of the bail applications and orders in similar cases. Those were the documents relied upon by the Detaining Authority to come to the subjective satisfaction that the detenu was likely to be released on bail. Admittedly, such documents have not been supplied to the detenu, as it did not form part of the Booklet. Therefore, non supply of the copy of the bail application and orders in similar cases to the detenu would vitiate the impugned detention order. Further, due to non-supply of such a vital document, the detenu has lost valuable right to make an effective representation to the authorities concerned.

The detention order passed by second respondent, detaining the detenu Santhanabarathi S/o.Brammanayagam, aged about 37 years, made in BCDFGISSV No.426 of 2015 dated 31.05.2015, 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/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

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To

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

2.The Commissioner of Police,
Chennai Police,
Chennai - 600 008.

3.The Superintendent of Central Prison,
Puzhal, Chennai.

4. The Joint Secretary to Government Public
(Law & order), Fort St. George,
Chennai. 600 009.

5.The Public Prosecutor,
High Court, Madras.

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KJI (CO)
EU 12.10.15



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