

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 15.09.2015

CORAM:

THE HONOURABLE MR.JUSTICE C.T.SELVAM

AND

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

H.C.P.No.1799 of 2015

Subaskaran (a) Bose
S/o.Sundar

... Petitioner/Defendant

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

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 pertaining to the detention order passed by second respondent in Memo No.427/BCDFGISSSV/2015 dated 31.05.2015 against the detenu Subaskaran @ Bose S/o.Sundar, aged about 37 years 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

O R D E R

[Order of the Court was made by C.T.SELVAM, J.]

Petitioner/detenu has been branded as "Goonda" under Tamil Nadu Act 14 of 1982 and detained under orders of second respondent passed in Memo No.427/BCDFGISSSV/2015 dated 31.05.2015. Such order is under challenge herein.

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

Sl.No.	Police Station and Crime No.	Sections 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. Learned counsel for petitioner submits that non-application of mind on the part of the detaining authority is writ large since in considering the possibility or otherwise of the detenu being released on bail, the detaining authority has taken into consideration the possibility of the detenu coming out on bail in respect of adverse cases in Crime Nos.1593 of 2014, 203 of 2015 and 348 of 2015 and the ground case in Crime No.357 of 2015. However, the detaining authority has failed to take into consideration the possibility or otherwise of the detenu being released on bail in respect of other adverse cases viz., Crime Nos.16 and 1670 of 2014 and 172, 327, 177 and 182 of 2015

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

5. We find that the order of detention does suffer from non application of mind and for the reasons put forth by learned counsel for petitioner. The order under challenge would have to fall.

The impugned order of second respondent, detaining the detenu, Subaskaran @ Bose S/o.Sundar, made in Memo No.427/BCDFGISSSV/2015 dated 31.05.2015, is quashed and the Habeas Corpus Petition is allowed. The detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

gm

Sd/-
Assistant Registrar (Records)

/True copy/

Sub-Assistant Registrar

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 Public Prosecutor,
High Court, Chennai.
4. The Superintendent,
Central Prison, Puzhal,
Chennai
5. The Joint Secretary to Government,
Public (Law and Order), Fort St.
George, Chennai - 600 009

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CA (CO)
sd : 07/10/2015