

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.09.2015

C O R A M

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

Habeas Corpus Petition No.1836 of 2015

K.Govindaraj

... Petitioner

-vs-

1.State of Tamil Nadu,
Rep. By the Secretary,
Home, Prohibition and Excise Department,
Secretariat, Fort St. George,
Chennai - 600 009.

2.The District Collector and
District Magistrate,
Dharmapuri District,
Dharmapuri.

... 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 relating to the detention order S.C.No.10/2015 dated 28.02.2015 passed by the second respondent under Tamil Nadu Act 14/1982 and quash the same and direct the respondent to produce the detenu Sakthivel son of Govindaraj now confined in Central Prison, Salem before this Court and set the detenu Sakthivel son of Govindaraj at liberty.

For Petitioner : Mr.G.Ilamurugu

For Respondents : Mr.M.Maharaja,
Additional Public Prosecutor

O R D E R

(The order of the Court was made by S.TAMILVANAN, J.)

Petitioner is the father of the detenu, who has been branded as a "Goonda" under the provisions of Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum-grabbers and Video

Pirates Act, 1982 (Tamil Nadu Act 14 of 1982) and detained under order of the second respondent passed in S.C.No.10/2015 dated 28.02.2015.

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

Sl.No.	Police Station and Crime No.	Sections of Law
1.	Krishnapuram Police Station Crime No.141 of 2013	379 IPC
2.	Indur Police Station Crime No.73 of 2014	379 IPC
3.	Indur Police Station Crime No.74 of 2014	379 IPC
4.	Dharmapuri Police Station Crime No.992 of 2014	379 IPC
5.	Perumbalai Police Station Crime No.83 of 2014	379 IPC @ 120(B), 379 IPC

The alleged ground case has been registered against the detenu by the Dharmapuri Police Station in Crime No.102 of 2015 for offence under Section 379 IPC. Aggrieved by the order of detention, the present writ petition has been filed.

3. Amidst several grounds raised, learned counsel for petitioner submits that though the detaining authority has considered the position that the bail application of the detenu in the ground case was pending as on the date of passing the detention order, he has gone on to inform that there was a likelihood of the detenu being released on bail since in a similar case, bail was granted by the learned Judicial Magistrate No.2, Dharmapuri in CrI.MP.No.4674/2014 in respect of Crime No.73 of 2014 on the file of the Indur Police Station. Learned counsel submits that the order of the detaining authority reflects non-application of mind since the remand extension order has been passed on 27.02.2015 and the same was obtained on 02.03.2015, but whereas the detention order has been passed as early as on 28.02.2015.

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 the learned counsel for the petitioner, the order under challenge would have to fall.

6. Accordingly, the impugned detention order passed by the second respondent, detaining the detenu, namely, Sakthivel, S/o.Govindaraj, aged 24 years, made in S.C.No.10/2015 dated 28.02.2015, 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

/ TRUE COPY /

SUB-ASSISTANT REGISTRAR

cse

To

1.State of Tamil Nadu,
Rep. By the Secretary,
Home, Prohibition and Excise Department,
Secretariat, Fort St. George,
Chennai - 600 009.

2.The District Collector and
District Magistrate,
Dharmapuri District,
Dharmapuri.

3.The Superintendent,
Central Prison,
Salem.

4.The Public Prosecutor
High Court, Chennai.

5. The Joint Secretary to
Govt Public(Law & Order),
Fort st.George, Chennai-9.

+1 CC to M/S.G.ILAMURUGU ADVOCATE. SR.NO. 50006

H.C.P.No.1836 of 2015

CO-RSK
JD 07/10/2015