

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.1968 of 2015

Queen Mery
W/o.Ethiraj

...Petitioner/
Mother of the detainee

-vs-

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

2.The Commissioner of Police,
Chennai City Police,
Commissioner Office, Egmore,
Chennai-600 008.

3.The Inspector of Police,
S-9, Pazhavanthangal Police Station,
Chennai.

...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 relating to the impugned order in BCDFGISSSV No.445/2015 dated 10.06.2015 on the file of the second respondent herein and set aside the same as illegal and to direct the respondents to produce the detenu Appu @ Martin Kumar @ Appu Martin, son of Ethiraj, aged about 43 years, now confined at Central Prison, Puzhal, Chennai, before this Court and to set him at liberty.

For Petitioner : Mr.Ilayaraja Kandasamy

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 Appu @ Martin Kumar @ Appu Martin, son of Ethiraj, who has been branded as "Goonda" under the Tamil Nadu Act 14 of 1982 and detained under orders of second respondent passed in BCDFGISSSV No.445/2015 dated 10.06.2015. 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	S-9 Pazhavanthangal Police Station, Crime No.955 of 2014	147, 148, 448, 307 r/w.506(ii) IPC
2	S-4 Nandambakkam Police Station, Crime No.615 of 2015	341, 392, 506(ii) IPC

The ground case has been registered against the detenu in Crime No.519 of 2015 on the file of S-9 Pazhavanthangal Police Station for offences u/s.341, 294(b), 427, 392, 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, an order of bail passed by learned Principal Sessions Judge, Chennai, in CrI.M.P.No.10992 of 2011, on 12.10.2011, in connection with the case in Crime No.1640 of 2011 on the file of V-5 Thirumangalam Police Station, for offences u/s.294(b), 341, 336, 307, 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.

This Habeas Corpus Petition is allowed. The impugned order passed by second respondent against the detenu Appu @ Martin Kumar @ Appu Martin, son of Ethiraj, made in BCDFGISSSV No.445/2015 dated 10.06.2015, 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-II)

//True Copy//

Sub Assistant Registrar

vga

To

1.The Secretary to Government of Tamil Nadu,
Department of Prohibition and Excise (Home),
Fort St. George, Chennai - 600 009.

2.The Commissioner of Police,
Chennai City Police,
Commissioner Office, Egmore,
Chennai-600 008.

3.The Inspector of Police,
S-9, Pazhavanthangal Police Station,
Chennai.

4.The Public Prosecutor
High Court, Chennai.

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

6. The Joint Secretary to Government,
Public (Law & Order)
Fort St. George, Chennai - 9.

H.C.P.No.1968 of 2015

RSI (CO)
PSI (28.10.2015)