

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2015

CORAM

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

H.C.P.No.885 of 2015

Vajeem Shet
S/o.Naina Mohammed

...Petitioner

Vs.

1. The State of Tamilnadu represented by
Secretary to Government
Home, Prohibition & Excise Department,
Secretariat, Chennai - 600 009.
2. The Commissioner of Police,
Coimbatore City,
Coimbatore.
3. The Superintendent,
Central Prison,
Coimbatore.

...Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus to call for the entire records from the second respondent in connection with order in C.No.11/G/IS/2015 dated 13.03.2015 and quash the same and produce the petitioner's brother namely N.Anwar Sadath @ Anwar, S/o.Naina Mohamed, aged 43 years, now confined at Central Prison, Coimbatore, under the Tamil Nadu Act 14 of 1982 before this Court and set him at liberty.

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For Petitioner : Mr.P.Pugalenth
For Respondents : Mr.M.Maharaja,
APP

O R D E R

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

Challenge is made to the order of detention passed by the second respondent vide Proceedings in C.No.11/G/IS/2015 dated 13.03.2015, whereby the detenu/the brother of the petitioner, by name, N.Anwar Sadath @ Anwar, S/o.Naina Mohamed, aged 43 years, was ordered to be detained under the provisions of the 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) branding him as a "GOONDA".

2. Though many grounds have been raised in the petition, the learned counsel appearing for the petitioner, confines his argument only in respect of non-application of mind on the part of the detaining authority in passing the order of detention.

3. Learned counsel for petitioner submitted that the detaining authority has been of the view that there is real possibility of the detenu being released on bail since in a similar case bail has been granted. In support of such reasoning, he has relied on an order of bail in a case where the accused has been released on bail not upon merits of the case but owing to his having become statutorily entitled thereto u/s.167(2) Cr.P.C. Therefore, the case treated as similar by the detaining authority merely is not so. Hence, the order of detention suffers from non-application of mind.

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.

Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order is set aside. The detenu is directed to be released forthwith unless his presence is required in connection with any other case.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

gm

To

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

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SKV (CO)
PSI (18.08.2015)

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