

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.944 of 2015

T.Manimegalai

W/o.Thamaraisamy

.. Petitioner/wife of the
detenu

Vs.

1.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 9.

2.District Magistrate and District Collector,
Tiruppur District, Tiruppur. .. Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Habeas Corpus to call for the records in connection with the order of detention passed by the second respondent dated 14.02.2015 in CrI.M.P.No.05/Goonda/2015 against the petitioner's husband Thamaraisamy S/o.Arumuga Gounder, aged about 35 years, who is confined at Central Prison, Coimbatore and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner सत्यमेव जयते Mr.V.Paarthiban

For Respondents : Mr.M.Maharaja
Additional Public Prosecutor

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O R D E R

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

Petitioner is the husband of the detenu, who has been branded as a "Goonda" under the Tamil Nadu Act 14 of 1982 and detained under order of the second respondent passed in CrI.M.P.No.05/Goonda/2015 dated 14.02.2015.

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

Sl. No.	Police Station and Crime No.	Sections of Law
1.	Tiruppur District, Alangiyam Police Station, Crime No.70 of 2013	457 and 380 IPC
2.	Tiruppur District, Dharapuram Police Station, Crime No.53 of 2014	379 IPC
3.	Tiruppur District, Dharapuram Police Station, Crime No.396 of 2014	457 and 380 IPC
4.	Tiruppur District, Alangiyam Police Station, Crime No.231 of 2014	454 and 380 IPC
5.	Tiruppur District, Palladam Police Station, Crime No.887 of 2014	392 IPC

The alleged ground case has been registered against the detenu in Crime No.278 of 2014 on the file of Alangiyam Police Station for offences under Sections 457 and 380 IPC. Aggrieved by the order of detention, the present writ petition has been filed.

3. Though many grounds have been raised in the petition, 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.

4. Learned counsel for petitioner submitted that though the detaining authority has informed that the detenu has not filed a bail petition in one of the adverse cases, the detaining authority has proceeded to inform that there is possibility of him doing so and coming out on bail, he has not informed that either the detenu or his relatives/friends are taking steps to do so. Therefore, there is no imminent possibility of the detenu coming out on bail. This is indicative of the non-application of mind on the part of the Detaining Authority and hence, submitted that the detention order is vitiated and the same is liable to be quashed.

5. Per contra, the learned Additional Public Prosecutor would submit that the order of detention has been passed on cogent and sufficient materials and the same cannot be interfered with at the instance of the petitioner. Therefore, he submits that the Habeas Corpus Petition does not merit any consideration and the same is liable to be dismissed.

6. 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 passed by the second respondent is set aside. The detenu is directed to be released forthwith unless his presence is required in connection with any other case.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

gm

To

- 1.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 9.
- 2.District Magistrate and District Collector,
Tiruppur District, Tiruppur.
- 3.The Superintendent of Central Prison
Coimbatore
- 4.The Joint Secretary to Government,
Public Law and Order Fort St.George, Chennai-9
- 5.The Public Prosecutor,
High Court, Madras.

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