

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.01.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.JAICHANDREN
AND
THE HONOURABLE MS.JUSTICE K.B.K.VASUKI

HCP.No.1944/2014

Indhira

Petitioner

Vs

1.The State of Tamil Nadu by its Secretary to Government
Home, Prohibition & Excise Department, Fort St.George
Chennai 600009

2.The Commissioner of Police,
The Commissioner Office,
Vepery, Chennai-600 007

Respondents

Prayer:- This Habeas Corpus Petition is filed, under Article 226
of the Constitution of India for the relief as stated therein.

For Petitioner : Mr.S.Senthilvel for
M/s.D. Gopikrishnan

For Respondents : Mr.C.Emallias,
Additional Public Prosecutor,

ORDER

The Petitioner, who is the wife of the detenu, has filed this
Petition challenging the order of detention passed by the 2nd
respondent in BDFGISSV No.765 of 2014, dated 7.7.2014, branding
the detenu as a "Goonda" under 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].

2. Though many grounds have been raised in the petition,
Mr.S.Senthil Vel, 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. According to the learned counsel for the petitioner, in both the English and Tamil versions of detention order, it was referred that in a similar case in Crime No.1143 of 2013, bail was granted to the detenu/Manimaran, vide CrI.M.P.No.1668 of 2013, by the Sessions Court, Chennai; whereas the case in Crime No.1143 of 2013 was registered by the Ennore Police Station, which falls within the jurisdiction of Principal District and Sessions Court, Thiruvallur. Hence, it is stated that the Detaining Authority has passed the impugned detention order in total non-application of mind and the subjective satisfaction arrived at by the Detaining Authority that there is a likelihood and imminent possibility of the detenu coming out on bail is a mere ipse dixit without any cogent materials.

4. 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.

5. We have given our careful and anxious consideration to the rival submissions put forward by the learned counsel on either side and thoroughly scanned through the entire materials available on record.

6. It is seen from para 4 of the grounds of detention that the detaining authority has referred to the similar case in Cr.No.1143 of 2013 and stated that the accused was released on bail by the Sessions Court, Chennai. Whereas, Cr.No.1143 of 2013 relating to Ennore Police Station is falling within the jurisdiction of Principal District and Sessions Court, Thiruvallur and the bail order in Cr.No.1143 of 2013 was also granted to the accused by the Principal District and Sessions Court, Thiruvallur. As rightly pointed out by the learned counsel for the petitioner, the discrepancy so found in the grounds of detention order and in the copy of the bail order furnished to the petitioner is omitted to be taken note of by the detaining authority before passing the impugned order and such omission will demonstrate the non-application of mind of the detaining authority into the relevant factors and the same is material enough to vitiate the so called subjective satisfaction arrived at by the detaining authority and the same invalidates the detention order, which is impugned herein.

7. In the result, this Habeas Corpus Petition is allowed. 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/-
Asst.Registrar (Records)

/true copy/

Sub Asst. Registrar

msk

To:

- 1.The Public Prosecutor, Madras High Court, Madras
- 2.The Secretary to Government,
State of Tamil Nadu by its
Home, Prohibition & Excise Department, Fort St.George,
Chennai 600009
- 3.The Commissioner of Police,
The Commissioner Office,
Vepery, Chennai-600 007
- 4.The Superintendent,
Central Prison, Puzhal,
Chennai.
5. The Joint secretary to Government
Public (Law and order)
Fort Saint George
Chennai-9

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