

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.04.2015

CORAM

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

H.C.P.No.2892 of 2014

J.Ranjith Selvin .. Petitioner
Vs.

1.The Secretary to Government,
State of Tamil Nadu
Home, Prohibition & Excise Department
Fort St George, Chennai 600 009.

2.The Commissioner of Police
Chennai Police, Chennai. .. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus calling for the records pertaining to the order of detention passed by the 2nd respondent in BDFGISSV No.1455/2014 dated 09.10.2014, set aside the same and direct the respondents to produce the detenu Jebasingh son of Jacob, aged about 59 years, before this Court and set him at liberty.

For Petitioner : Mr.G.Murugesh Umar

For Respondents : Mr.M.Maharaja,APP

ORDER

[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 Memo No.1455/BDFGISSV/2014 dated 09.10.2014, whereby the detenu/the husband petitioner herein, 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, Mr.G.Murugesh Umar, 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 appearing for the petitioner submitted that the detention order has been passed on total non-application of mind on the part of the Detaining Authority. He would submit that in page 5 of the Grounds of Detention, the Detaining Authority has stated that the detenu surrendered before the court concerned and was remanded to judicial custody as a remand prisoner till 24.10.2014. But, the Detaining Authority has not furnished the relevant documents to the detenu in that regard and thus, the detenu is deprived of making effective representation. Therefore, the Detention order is vitiated and is liable to be set aside.

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 heard the learned counsel for both sides with regard to the facts.

6.A perusal of the Grounds of Detention dated 09.10.2014, in particular, page 5, would show that the Detaining Authority has stated as follows:-

".....Later, Tr.Jeba Singh was surrendered before the Special Court for Trial of Anti Land Grabbing cases-II and remanded to judicial custody and lodged at Central Prison, Puzhal, Chennai as remand prisoner till 24.10.2014"

But, the documents relating to the remand of the detenu till 24.10.2014 has not been furnished to the detenu, as evidenced from the Booklet furnished to the detenu, depriving him of making an effective representation. Therefore, the detention order is vitiated and liable to be quashed on this ground alone.

7.It is a trite law that personal liberty protected under Article 21 is so sacrosanct and so high in the scale of Constitutional values that it is the obligation of the detaining authority to show that the impugned detention meticulously accords

with the procedure established by law. Preventive detention is preventive and not punitive. When ordinary law of the land is sufficient to deal with, taking recourse to the preventive detention law is illegal

8. In the light of the above facts and law, we have no hesitation in quashing the order of detention on the above mentioned ground.

9. 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 IV)

/true copy/

Sub Asst. Registrar

AP

To

1. The Secretary to Government,
State of Tamil Nadu
Home, Prohibition & Excise Department
Fort St George, Chennai 600 009.

2. The Commissioner of Police
Chennai Police, Chennai.

3. The Public Prosecutor,
High Court, Madras.

4. The Superintendent of Central Prison
Puzhal, Chennai.

5. The Joint Secretary to Government
Public (Law and order)
Fort St. George, Chennai-9

1 cc to Mr. Murugesh Umar, Advocate, sr. 19473

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