

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2015

CORAM

THE HONOURABLE MR.JUSTICE S.TAMILVANAN
and
THE HONOURABLE MR.JUSTICE B.RAJENDRAN

H.C.P.No.3700/2014

Natesha Rayan

.. Petitioner

Vs

1.The Secretary to the Government
Home, Prohibition & Excise Department
Secretariat, Chennai 600 009.

2.The Commissioner of Police,
Chennai Police.

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus to call for the records in connection with the order of detention passed by the 2nd respondent dated 26.11.2014 in Memo No.1969/BDFGISSV/2014, against the petitioner's mother Renuga @ Lidiya Rayan, Female, aged 47 years, wife of Mahesh Rayan, who is confined at Special Prison for Women, Puzhal, Chennai and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.K.Balakrishnan

For Respondents : Mr.M.Maharaja,APP

सत्यमेव जयते
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 2nd respondent vide Proceedings in Memo No.1969/BDFGISSV/2014 dated 26.11.2014, whereby the mother of the petitioner by name Renuga @ Lidiya Rayan, aged 47 years, wife of Mahesh Rayan, was ordered to be detained under the provisions of 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 her as a "GOONDA".

2.Though many grounds have been raised in the petition, Mr.K.Balakrishnan, 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 appearing for the petitioner, the petitioner is in remand in the ground case in Crime No.427/2014 registered by the Central Crime Branch 'X' Team. It is submitted that the detenu was lodged in the Special Prison for Women, Puzhal, Chennai as a remand prisoner till 19.11.2014 ; but the Detention order was passed on 26.11.2014. There is no material to show that the remand of the detenu was extended till 26.11.2014. It is also submitted that the Grounds of Detention has been supplied to the detenu without mentioning the date and the detention number. Therefore, it is stated that the detenu was deprived of making an effective representation in the absence of furnishing of full particulars by the Detaining Authority. Hence, it is stated that the Detaining Authority has passed the impugned detention order in total non-application of mind.

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.It is a case, among other grounds, where the learned counsel for the petitioner would urge that no materials have been provided by the Detaining Authority to show that remand of the detenu was extended from 19.11.2014 till 26.11.2014, i.e., the date on which the detention order was passed. As evident from the Grounds of Detention, in particular, page 4 para 4, it has been stated by the Detaining Authority that the "Tmt Renuga @ Lidiya Rayan was surrendered before the Chief Metropolitan Court, Egmore and lodged at Special Prison for Women, Puzhal, Chennai as remand prisoner till 19.11.2014" ; but a perusal of the Booklet furnished before us would show that not even an iota of material is furnished by the Detaining Authority to show that the remand period of the detenu was extended from 19.11.2014 till 26.11.2014. Further, in page 1 of the Grounds of Detention, there is no mention about the detention number and the date, though it has been stated as Memo No. /BCDFGISSV/2014 & Dated: .11.2014". Therefore, non-furnishing of details would amount to deprivation of the right of the detenu to make an effective representation and the same would vitiate the order of detention and the same cannot be sustained in the eye of law.

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 sole ground.

9. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order passed by the 2nd respondent 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

//True Copy//

Sub Assistant Registrar

AP

To

1.The Secretary to the Government

Home, Prohibition & Excise Department
Secretariat, Chennai 600 009.

2.The Commissioner of Police,
Chennai Police.

3.The Superintendent of Central Prison, Special Prison for Women
Puzhal, Chennai.

4.The Joint Secretary to Government,
Public(Law & Order)
Fort St.George, Chennai - 600 009.

5.The Public Prosecutor, High Court, Madras.

1 cc to Mr.K.Balakrishnan ,Advocate, SR.No.24040

H.C.P.No.3700/2014

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