



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 22.04.2015

Coram

THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE V.S.RAVI

H.C.P.(MD)No.144 of 2015

Sankar

.. Petitioner

Vs.

1.The State of Tamilnadu,
Rep.by Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat, Chennai - 9.

2.The Commissioner of Police,
O/o.Commissioner of Police,
Tiruchirapalli City,
Tiruchirapalli.

3.The Superintendant of Prison,
Tiruchirapalli Central Prison,
Tiruchirapalli.

.. Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus to call for entire records pertaining to the impugned detention order passed by the 2nd respondent in C.No.04/Detention/C.P.O /T.C/2015 dated 21.01.2015 and quash the same and direct the respondents to produce the detenu namely Sankar S/o.Ganesan aged about 30 years, now detained in Central Prison, Tiruchirapalli before this Court and set him at liberty.

For Petitioner : Mr.R.Alagumani

For Respondents : Mr.C.Ramesh

Addl.Public Prosecutor

ORDER

(Order of the Court was made by A.SELVAM, J.)

This Habeas Corpus Petition has been filed under Article 226 of the Constitution of India praying to call for records relating to the detention order passed in C.No.04/Detention/C.P.O /T.C/2015 dated 21.01.2015 by the detaining authority who has been arrayed as second respondent herein against the detenu by name Sankar S/o.Ganesan and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Ariyamangalam Police Station as sponsoring authority has submitted an affidavit to the detaining authority, wherein it is stated that the detenu has involved in the following adverse case:



Crime No.364 of 2014, Tiruchirapalli City Govt.Hospital Police Station registered under Section 380 of the Indian Penal code.

Further it is stated in the affidavit that on 24.11.2014 one Vinoth S/o.Ravichandran as complainant has given a complaint against the detenu and the same has been registered in Crime No.450 of 2014 under Sections 452 and 302 of the Indian Penal Code and ultimately requested the detaining authority to invoke Act 14 of 1982 against the detenu.

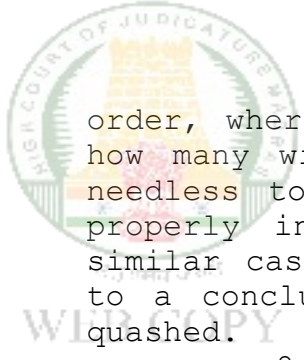
3. The detaining authority after considering the averments made in the affidavit and other connected documents has derived subjective satisfaction to the effect that the detenu is a 'habitual offender' and ultimately branded him as 'goonda' by way of passing the impugned detention order and in order to quash the same, the present Habeas Corpus Petition has been filed by the detenu himself as petitioner.

4. On the side of the respondents a detailed counter has been filed, wherein it has been contended to the effect that all the averments made in the petition are false and ultimately prayed to dismiss the same.

5. The learned counsel appearing for the petitioner has contended that in paragraph-3 of the detention order, it has been stated to the effect that the detenu has been initially remanded to custody on 11.12.2014 and subsequently his remand has been extended till 03.02.2015. The detaining authority has not mentioned anything about the interregnum period and therefore, the detaining authority has not applied his mind properly. Further the detaining authority has relied upon similar case particulars on the basis of bail order passed in Cr.M.P.No.770 of 2013 by the District and Sessions Judge, Tiruchirapalli and infact, the circumstances mentioned therein are not similar to that of the circumstances found in the ground case and on that aspect also the detaining authority has not applied his mind and therefore, the detention order in question is liable to be quashed.

6. The learned Additional Public Prosecutor has contended that even though the detenu has been initially remanded on 11.12.2014 and subsequent extension has been given upto 03.02.2015. Mere non mentioning of extension during interregnum period would not cause prejudice to the detenu and further even on 06.01.2015 the Investigating Officer has examined 15 witnesses in Crime No.450 of 2014. Under the said circumstances, the detaining authority has rightly relied upon the bail order passed in Cr.M.P.No.770 of 2013 dated 29.05.2013 and therefore, the detention order in question does not call for any interference.

7. As rightly pointed out on the side of the petitioner/detenu in paragraph-3 of the detention order, it has been clearly stated to the effect that the detenu has been initially remanded on 11.12.2014 and subsequently his remand has been extended till 03.02.2015 and no mention has been made in the detention order with regard to subsequent extension and further in the bail order passed in Cr.M.P.No.770 of 2013 the concerned Judge himself has perused the Case Diary and ultimately found that 20 witnesses have been examined on the date of passing of the bail



order, whereas, no details are found place in the detention order as to how many witnesses have been examined on 06.01.2015. Therefore, it is needless to say that the detaining authority has not applied his mind properly in mentioning remand extension order as well as mentioning similar case particulars and that itself would be sufficient for coming to a conclusion that the detention order in question is liable to be quashed.

8. In fine, this Habeas Corpus Petition is allowed and the detention order dated 21.01.2015 passed in C.No.04/Detention/C.P.O/T.C/2015 by the detaining authority/second respondent herein is quashed and the petitioner/detenu is ordered to be set at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-

Assistant Registrar(Writ)

/True copy/

Sub Assistant Registrar

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To

- 1.The Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat, Chennai - 9.
- 2.The Commissioner of Police,
O/o.Commissioner of Police,
Tiruchirapalli City,
Tiruchirapalli.
- 3.The Superintendant of Prison,
Tiruchirapalli Central Prison,
Tiruchirapalli.(In duplicate for communicate to detenu)
- 4.The Joint secretary to Government
Public (Law & Order) Fort St., George, Chennai-9
- 5.The Addl.Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to MR.R.ALAGUMANI, ADVOCATE IN SR NO. 21581

H.C.P. (MD) No.144 of 2015

22.04.2015

rg.24.04.2015 3p/7c.