



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.09.2015

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

and

THE HONOURABLE MR.JUSTICE V.S.RAVI

H.C.P(MD)No.764 of 2015

John Mechandro Boris @ Boris

..Petitioner

Vs.

1. The Secretary to Government,
State of Tamilnadu,
Home, Prohibition and Excise Department,
Secretariat, Fort St.George,
Chennai-9.

2. The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Pudukkottai District.

3.The Superintendent of Prison,
Trichy Central Prison,
Trichy.

..Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus, to call for the the entire records connected with the detention order of the respondent No.2 in P.D.O.No.12/2015, dated 09.05.2015, and quash the same and direct the respondents to produce the body or person of the detenu by name, John Mechandro Boris @ Boris, son of John Bosco, aged about 27 years, now detained at Trichy Central Prison, before this Hon'ble Court and set him at liberty forthwith.

For Petitioner : Mr.r.Alagumani

For Respondents : Mr.T.Mohan

Additional Public Prosecutor.

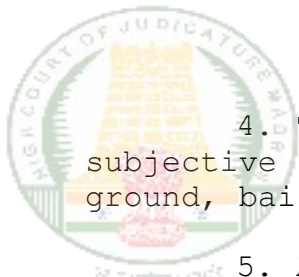
O R D E R

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

The petitioner is the detenu, Mr.John Mechandro Boris @ Boris, S/o. John Bosco, aged at 27 years. He has been detained under the Tamil Nadu Act 14 of 1982 as per the order of the second respondent in his proceedings in P.D.O.No.12 of 2015, dated 09.05.2015, branding him as "Goonda". Challenging the same, the petitioner is before this Court with this Habeas Corpus Petition.

2.We have heard the learned counsel appearing for the petitioner and learned Additional Public Prosecutor appearing for the State. We have also gone through the records carefully.

3. Though several grounds have been raised in this petition, the learned counsel for the petitioner would focus his argument on the ground <https://hservices.ecourts.gov.in/hcaweb/cas/> that the learned subjectve satisfaction arrived at by the Detaining Authority that there was real possibility of the detenu coming out of bail in the ground case is baseless.



4. The learned Additional Public Prosecutor would submit that the subjective satisfaction arrived at on the basis that for the similar ground, bail was granted to the similarly placed persons.

5. Admittedly, the application filed by the petitioner before the Principal District and Sessions Court, Pudukkottai, in Cr.M.P.No.718 of 2015 seeking bail in the ground case in Crime No.125 of 2015 was dismissed. However, the Detaining Authority has stated that the relatives of the detenu were taking steps to release the accused on bail. To arrive at such conclusion, absolutely there is no material before the detaining authority. It shows the non application of mind of the detaining authority. In such view of the matter, the detention order is liable to be set aside.

6. In the result, this Habeas Corpus Petition is allowed and the impugned Detention Order, passed by the second respondent, in his proceedings in P.D.O.No.12 of 2015, dated 09.05.2015, is quashed. The detenu, namely, John Mechandro Boris @ Boris, S/o. John Bosco, aged 27 years, is ordered to be set at liberty forthwith, if he is not required for detention in connection with any other case.

Sd/-

Assistant Registrar(Crl.side)

/True copy/

Sub Assistant Registrar

To

1. The Secretary to Government, State of Tamilnadu,
Home, Prohibition and Excise Department,
Secretariat, Fort St.George, Chennai-9.
2. The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Pudukkottai District.
- 3.The Superintendent of Prison,
Trichy Central Prison, Trichy.
(In duplicate to communicate the detenu)
4. The Joint Secretary to Government,
Public (Law & Order) Department,
Fort St.George, Secretariat, Chennai-9.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to M/s.R.Alagumani, Advocate in SR.No.55742

H.C.P (MD) No.764 of 2015
21.09.2015

pjl/gcg

PBK/AAL-MPA/SAR-I 23/09/2015 ::2P-8C:: (IT)