

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.02.2016

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN
and
THE HON'BLE MR.JUSTICE S.NAGAMUTHU

H.C.P.No.1906/2015

Saroja ... Petitioner/Mother of the detenue

Vs

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

2.The District Collector and
District Magistrate
Kancheepuram District
Kancheepuram.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS to call for the entire records relating to the petitioner's son detention under Tamil Nadu Act 14 of 1982 vide Detention Order, dated 28.07.2015 on the file of the 2nd respondent herein made in Proceedings B.C.D.F.G.I.S.S.S.V No.62/2015 and quash the same as illegal and consequently direct the respondents herein to produce the petitioner's son, viz., Prasanth, S/o.Boopathy, aged 24 years, before this Court and set him at liberty, who is presently detained in Central Prison, Puzhal, Chennai-600 066.

For Petitioner : Mr.M.Baskar

For Respondents : Mr.A.N.Thambidurai,
Additional Public Prosecutor

ORDER

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

Challenge is made to the order of detention passed by the second respondent vide, Proceedings B.C.D.F.G.I.S.S.S.V No.62/2015, dated 28.07.2015, whereby, the son of the petitioner, by name, Prasanth, S/o.Boobathy, aged 24 years, 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, Sexual Offenders, Slum-grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982) branding him as a "Goonda" as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982.

2. As per the Grounds of Detention, dated 28.07.2015, passed by the second respondent, the detenu came to adverse notice in the following cases:

i) Adverse Cases:

Sl No.	Name of the Police station and Crime No.	Section of law
1	Maraimalai Nagar PS Cr.No.352/2013	U/s.120(b), 147, 148, 342, 302 and 149 IPC
2	Maraimalai Nagar PS Cr.No.565/2015	U/s.341, 294(b), 397, and 506 (ii) IPC

(ii) Ground Case:

Sl No.	Name of the Police station and Crime No.	Section of law
1	Maraimalai Nagar PS Cr.No.569/2015	U/s.341, 294(b), 397, 307 and 506 (ii) IPC

3. Though many grounds have been raised in the petition, Mr.M.Baskar, 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.

4. The learned counsel appearing for the petitioner would submit that in paragraph No.5 of the Grounds of Detention, it is stated that the detenu was remanded to judicial custody in connection with the adverse case in Cr.No.565 of 2015 and ground case in Cr.No.569 of 2015. In respect of both cases, the detenu

filed applications seeking bail and they were pending before the Sessions Court. The Detaining Authority has stated that in connection with the case in Cr.No.344 of 2014 for some other accused viz., Thiyagu @ Thiyagarajan, S/o. Kumar, bail was granted by the Sessions Court on 02.06.2014 and therefore, in the instant cases also, there is likelihood of bail being granted to the detenu. But, the Detention Order does not reflect as to whether the case in Cr.No.344 of 2014 is similar to the cases in Cr.Nos.565 or 569 of 2015. The offences involved in Cr.Nos.565 and 569 of 2015 are different. This is indicative of the non-application of mind on the part of the Detaining Authority and hence, submitted that the detention order is vitiated and the same is liable to be quashed.

5.Per contra, Mr.A.N.Thambidurai, 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.

6.We have heard the learned counsel appearing on either side and we have perused the records carefully.

7.A perusal of the Grounds of Detention, more particularly, paragraph No.5 would go to show that the detenu was remanded to judicial custody in connection with the adverse case in Cr.No.565 of 2015 and ground case in Cr.No.569 of 2015. Of course, it is true that in respect of both cases, he filed applications seeking bail and they were pending before the Sessions Court. The Detaining Authority has stated that in connection with the case in Cr.No.344 of 2014 for some other accused viz., Thiyagu @ Thiyagarajan, S/o. Kumar, bail was granted by the Sessions Court on 02.06.2014 and therefore, in the instant cases also, there is likelihood of bail being granted to the detenu. But, as rightly pointed out by the learned counsel for the petitioner, the Detention Order does not reflect as to whether the case in Cr.No.344 of 2014 is similar to the cases in Cr.Nos.565 or 569 of 2015. Obviously, the offences involved in Cr.Nos.565 or 569 of 2015 are different. This only shows total non-application of mind on the part of the Detaining Authority. Hence, the order of detention cannot be sustained in the eye of law and the same is liable to be set aside.

8. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order dated 28.07.2015 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/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1.The Secretary to Government, State of Tamil Nadu,
Home, Prohibition and Excise Department
Fort St.George
Chennai 600 009.
- 2.The District Collector and
District Magistrate
Kancheepuram District
Kancheepuram.
- 3.The Additional Public Prosecutor
High Court
Madras.
- 4.The Superintendent,
Central Prison,
Puzhal, Chennai-66.
5. The Joint Secretary to Government,
Public(Law & Order),
Fort Saint George, Chennai - 9.

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H.C.P.No.1906/2015

ctk(CO)
srg(01/03/2016)