

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.03.2016

Coram:

THE HONOURABLE MR.JUSTICE M.JAICHANDREN
and
THE HONOURABLE JUSTICE S.NAGAMUTHU

H.C.P.No.2256 of 2015

G.P.Shanmugam

.. Petitioner

vs.

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

2.The Commissioner of Police,
Chennai Police,Egmore,
Chennai-8.

.. Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of a writ of Habeas Corpus to call for the records of the 2nd respondent vide his Memo No.757/BCDFGISSSV/2015, passed by the 2nd respondent on 17.08.2015, set aside the same and direct the respondents to produce Kalai @ Kalaivanan, Son of G.P.Shanmugam, aged 35 years, who is now detained in Central Prison, Puzhal, Chennai-66, before this Court.

For petitioner : Mr.S.Swamidoss Manokaran

For Respondents: Mr.A.N.Thambi Durai,
1 and 2 Addl. Public Prosecutor (Crl.side)

O R D E R

(Order of the Court was made by S.NAGAMUTHU, J.)

The petitioner is the father of one Kalai @ Kalaivanan. He has been detained by the 2nd respondent, namely, The Commissioner of Police, Chennai Police, Vepery, Chennai, under the Tamil Nadu Act 14 of 1982 as a ''Goonda'' vide Detention Order in No.757/BCDFGISSSV/2015 dated 17.08.2015. Challenging the said detention order, the petitioner has come up before this Court with this Habeas Corpus Petition.

2. We have heard the learned Counsel for the petitioner, the learned Additional Public Prosecutor (Crl. Side) appearing for the respondents and we have also perused the records carefully.

3. Though several grounds have been raised in this Habeas Corpus Petition, the learned Counsel appearing on behalf of the petitioner would mainly focus his argument on the ground that in paragraph 4 of the Detention Order, it has been stated by the Detaining Authority that the detenu is likely to be released on bail. The said satisfaction arrived at by the Detaining Authority is not founded on facts.

4. We have considered the above submission.

5. The detenu is involved in yet another case in D.1 Triplicane Police Station Crime No.2102 of 2015 for the offences 147, 148, 341 and 307 of IPC. The petition filed seeking bail was pending before the Principal Sessions Judge, Chennai, in Crl.M.P.No.12978 of 2015. The Detaining Authority had relied on an order passed by the Principal Sessions Judge, Chennai in Crl.M.P.No.17395 of 2014 in connection with yet another case in Cr.No.809 of 2014 of F.1 Chindadripet Police Station for the offences under Sections 147, 148, 341, 307 & 302 IPC. According to the Detaining Authority, since bail was granted by the learned Principal Sessions Judge, Chennai, in F.1 Chindadripet Police Station Cr.No.809 of 2014, there was every likelihood of the detenu being released on bail in the present case in D.1 Triplicane Police Station Crime No.2102 of 2015 also.

6. In our considered view, the said satisfaction arrived at by the Detaining Authority is not on appreciating the entire facts of the case. In the case in D.1 Triplicane Police Station Crime No.2102 of 2015, there is a serious allegation of conspiracy against the detenu whereas in the similar case in F1 Chindatripet Police Station Cr.No.809 of 2014, there is no conspiracy. Therefore, the case in F1 Chindatripet Police Station Cr.No.809 of 2014 cannot be treated as a similar case to that of Cr.No.2102 of 2015 of D1 Triplicane Police Station. In such view of the matter, we are not satisfied with the satisfaction arrived at by the detaining authority. It appears that the Detaining Authority has passed the order on predetermination. Hence, we are inclined to quash the said detention order.

7. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order in No.757/BCDFGISSSV/2015 dated 17.08.2015, passed by the second respondent is quashed. The detenu, namely, Kalai @ Kalaivannan, son of G.P.Shanmugam, is directed to be released forthwith, unless his presence is required in connection with any other case.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To:

1. The Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.
2. The Commissioner of Police,
Chennai Police, Egmore,
Chennai-8.
3. The superintendent,
Central Prison,
Puzhal, Chennai-600 066.
4. The Joint Secretary to Government,
Public(Law & Order),
Fort Saint George, Chennai - 9.
5. The Public Prosecutor,
High Court, Madras.

H.C.P.No.2256 of 2015

bvr (CO)
srg (23/03/2016)