

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2016

CORAM:

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

H.C.P.No.2380 of 2015

Karthik

... Petitioner

Vs.

1. The Secretary to Government
State of Tamil Nadu
Home, Prohibition & Excise Department
Fort St George, Chennai 600009.

2. The Commissioner of Police
Chennai Police, Vepery, Chennai.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus calling for the records of the detention made in Memo No.715/BCDFGISSSV/2015 dated 10.08.2015 passed by the Commissioner of Police, Chennai Police, Vepery, Chennai the 2nd respondent herein and set aside the same and direct the respondents to produce the detenu Thiru Karthik, son of Veeramani, aged 33 years, now confined in Central Prison, Puzhal II, Chennai before this Court and set the detenu Thiru Karthik at liberty.

For Petitioner : Mr.Daniel Mary

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

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ORDER

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

The petitioner/the detenu himself, challenges the Detention Order passed by the 2nd respondent, detaining him as a Goonda, under the Tamilnadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Ofenders, Forest Offenders, Immoral Traffic Offenders, Sand Offenders, Sexual

Offenders, Slum Grabbers and Video Pirates Act, 1982 [Act 14 of 1982], vide order dated 10.08.2015 made in Memo No.715/BCDFGISSSV/2015.

2. Heard the learned counsel, appearing on behalf of the petitioner and the learned Additional Public Prosecutor appearing for the respondents. We have gone through the records carefully.

3. Though several grounds have been raised by the petitioner in the petition, learned counsel for the petitioner would urge that the Detaining Authority, in paragraph 4 of the Grounds of Detention has stated that in a similar case registered against some other accused, since bail was granted by the Court, in the cases registered against the detenu, in which he had been remanded to custody, there was a likelihood of the detenu being granted bail. Learned counsel submitted that however, the copy of the applications seeking bail filed by the accused in the so-called similar case, were not furnished to the detenu. This has caused serious prejudice to the detenu, according to the learned counsel for the petitioner, to make effective representation against the order of detention.

4. We find force in the said argument. It has been settled in number of cases by this Court that the non-furnishing of the copies of the bail applications in similar cases would cause serious prejudice to the detenu in making effective representation. This would also vitiate the detention order, warranting interference of this Court.

5. In such view of the matter, this Court finds it appropriate to quash the detention order. Accordingly, the Habeas Corpus Petition is allowed and the detention order passed by the 2nd respondent made in Memo No.715/BCDFGISSSV/2015 dated 10.08.2015 is hereby set aside. The detenu is directed to be set at liberty forthwith unless his presence is required in connection with any other case.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

AP

To

1. The Secretary to Government
State of Tamil Nadu
Home, Prohibition & Excise Department
Fort St George, Chennai 600009.
2. The Commissioner of Police
Chennai Police,
Vepery, Chennai.
3. The Superintendent,
Central Prison,
Puzhal II, Chennai.
4. The Joint Secretary to Government,
Public(Law & Order),
Fort Saint George, Chennai - 9.
5. The Public Prosecutor,
Madras High Court,
Madras.

H.C.P.No.2380 of 2015

ALA (CO)
CA(28/03/2016)



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