

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2016

Coram:

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

H.C.P.No.2430 of 2015

N.Govindasamy

... 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,
Greater Chennai,
Vepery, Chennai.

... Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus, directing the respondents to produce the petitioner's son by name Suresh @ Pattu Suresh aged 28 years before this Court, now confined in Central Prison, Puzhal, Chennai, set him at liberty and to call for the records pertaining to the order of detention passed in BCDFGISSSV No.905 of 2015, dated 10.09.2015 by the 2nd respondent and set aside the same.

For petitioner : Mr.K.Thenrajan

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

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O R D E R

(Order of the Court was made by M.JAICHANDREN, J.)

The petitioner is the father of one Suresh @ Pattu Suresh. He has been detained by the 2nd respondent, namely, The Commissioner of Police, Chennai, under the Tamil Nadu Act 14 of 1982 as a 'Goonda' vide Detention Order No.905/BCDFGISSSV/2015, dated 10.09.2015. 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. Even though, number of grounds, have been raised by the petitioner, in the present Habeas Corpus Petition, the learned Counsel for the petitioner, had submitted that, the Detaining Authority has stated in paragraph 4 of the impugned Detention Order dated 10.09.2015 that he was aware that the detenu is in remand in C5 Kothavalchavadi Police Station Cr.No.310 of 2015 and he had moved a bail application before the Court of Principal Sessions, Chennai, in Crl.M.P.No.14744 of 2015, and the same had been dismissed. He had further stated that in a similar case, registered under Sections 341, 294-b, 336, 427, 392 and 506 (ii) read with 397 of IPC in C.5 Kothavalchavadi Police Station in Cr.No.319 of 2013, bail had been granted by the Court of Principal Sessions, Chennai, in Crl.M.P.No.7032 of 2013. Hence, the Detaining Authority had inferred that it is likely that the detenu would come out on bail in C.5 Kothavalchavadi Police Station Cr.No.310 of 2015 by filing bail petition before the appropriate court, since in similar cases, bails were granted by courts.

4. The learned Counsel appearing on behalf of the petitioner, had submitted that there is no evidence, whatsoever, furnished to the detenu to substantiate the claim of the Detaining Authority that an attempt had been made by the detenu to file a bail application in C.5 Kothavalchavadi Police Station Cr.No.319 of 2013 and that he would come out on bail. The said submission made by the learned Counsel for the petitioner, had not been refuted by the learned Additional Public Prosecutor, appearing on behalf of the respondents.

5. In fact, on perusal of the records placed before this Court, we are convinced that there is no evidence, whatsoever, with the detaining authority to arrive at a conclusion that the detenu would file a bail application in C5 Kothavalchavadi Police Station Cr.No.310 of 2015 and come out on bail. Hence, it is inferred that the Detaining Authority has not applied his mind, with regard to the every possibility of the detenu, coming out on bail.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order in No.905/BCDFGISSSV/2015, dated 10.09.2015, passed by the second respondent is quashed. The

detenu, namely, Suresh @ Pattu Suresh, son of N.Govindasamy, is directed to be released, forthwith, unless his presence is required in connection with any other case.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To:

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

सत्यमेव जयते

H.C.P.No.2430 of 2015

RSY (CO)
CA(31/03/2016)

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