

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.2493 of 2015

D.Easwari

... Petitioner

Vs.

1. The Secretary to the Government,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.
2. The District Collector and
District Magistrate,
Namakkal District,
Namakkal.

.... 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 detention made in C.M.P.No.53/Goonda/2015/M1 dated 10.09.2015, passed by the 2nd respondent herein and set aside the same and direct the respondents to produce the detenu Dhanapal, S/o.Arumugam, aged about 31 years, now confined in Central Prison, Salem, before this Court and set him at liberty forthwith.

For petitioner : Mr.E.C.Ramesh

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

O R D E R

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

The petitioner is the wife of one Dhanapal, son of Arumugam. He has been detained by the 2nd respondent, namely, The District Collector and District Magistrate, Namakkal District, Namakkal, under the Tamil Nadu Act 14 of 1982, as a ''Goonda'' vide Detention Order, in CMP.No.53/Goonda/2015/M1, 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 various grounds have been raised in the present Habeas Corpus Petition, challenging the order of detention, dated 10.09.2015, the learned Counsel appearing on behalf of the petitioner, had pointed out that the Detaining Authority had stated in paragraph 4 of the impugned Detention Order that the petitioner has filed a bail petition in Komarapalayam Police Station Cr.No.297 of 2015, for an offence under Section 302 of IPC, before the learned Principal District and Sessions Judge, Namakkal in CMP.No.832 of 2015 and the said petition is pending. He had further stated that in a similar case registered at Tiruchengode Rural Police Station in Cr.No.191 of 2015 for the offences under Sections 392 read with 397 and 506(ii) of IPC, bail was granted to the accused therein in CMP.No.535 of 2015, on 09.06.2015 by the learned Principal District and Sessions Judge, Namakkal.

4. The learned Counsel for the petitioner had stated that even though the English version of the bail petition in CMP.No.535 of 2015, filed before the Principal District and Sessions Judge, Namakkal, had been furnished to the detenu, a copy of the order in vernacular language, relating to the said petition, had not been furnished to the detenu.

5. The learned Additional Public Prosecutor, appearing on behalf of the respondent, had not refuted the said submission, made by the learned Counsel for the petitioner.

6. In such circumstances, we are of the view that the Detaining Authority, while passing the impugned detention order, had not applied his mind properly, in stating that, there is an eminent possibility of the detenu, coming out on bail in Komarapalayam Police Station Cr.No.297 of 2015, on the file of

the Principal District and Sessions Judge, Namakkal. Further, the petitioner would not have an opportunity of making effective representation against the impugned detention order. In view of the said defect, as pointed out by the learned Counsel for the petitioner, we are inclined to quash the impugned detention order.

7. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order in CMP.No.53/Goonda/2015/M1, dated 10.09.2015, passed by the 2nd respondent is quashed. The detenu, namely, Dhanapal, son of Arumugam, is directed to be released forthwith, unless his presence is required in connection with any other case.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary to the Government,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.
2. The District Collector and
District Magistrate,
Namakkal District,
Namakkal.
3. The Superintendent,
Central Prison, Salem.
4. The Joint Secretary to Government,
Public(Law & Order),
Fort Saint George, Chennai - 9.
5. The Public Prosecutor,
High Court, Chennai.

+1cc to Mr.E.C.Ramesh, Advocate, S.R.No.15180

H.C.P.No.2493 of 2015

SV(CO)
CA(05/04/2016)