

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.03.2016

CORAM:

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

H.C.P.No.2505 of 2015

Rajeswari

... Petitioner

-Vs-

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

2.The Commissioner of Police
Egmore
Chennai 600 008.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, to call for the records in connection with the order of detention passed by the second respondent dated 07.09.2015 in Memo No.876/BCDFGISSSV/2015 against the petitioner's brother Senthil @ Senthil Kumar, S/o Jeganathan, aged 29 years, who is confined at Central Prison, Puzhal, Chennai and set aside the same and direct the respondents to produce him before this Court and set him at liberty.

For Petitioner : Mr.V.Vargees Amal Raja

For Respondents : Mr.A.N.Thambidurai
Addl. Public Prosecutor

O R D E R

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

This Habeas Corpus Petition is filed, by the brother of the detenu, namely, Senthil @ Senthil Kumar, aged 29 years, S/o Jeganathan, to issue a Writ of Habeas Corpus, to call for the records, in Memo No.876/BCDFGISSSV/2015 dated 07.09.2015, passed

by the 2nd Respondent, detaining the detenu, under Section 3(1) 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 14/1982) 2 (f) of the Tamil Nadu Act 14/1982, branding him as a "Goonda", as contemplated u/s 2(f) of the Tamil Nadu Act 14 of 1982, and to quash the same, produce him before this Court and to set him at liberty.

2. We have heard the learned counsel appearing on behalf of the petitioner and the learned Additional Public Prosecutor appearing for the State and we have also perused the records carefully.

3. Even though several grounds have been raised in assailing the impugned order of detention in the petition, the learned counsel for the petitioner would submit that, in paragraph 4 of the detention order dated 07.09.2015, it has been stated that the petition filed by the detenu seeking bail in Cr.No.652 of 2015 was pending and though it is stated that in similar case in Cr.No.464 of 2012, bail was granted and thus there was likelihood of the detenu coming out on bail immediately in Cr.No.652/2015, the said conclusion is not correct.

4. We have perused the records. It is seen that Cr.No.464 of 2012 involves offences under Sections 341, 294(b), 336, 427, 392, 397 and 506(ii) IPC, whereas, the offence involved in Cr.No.652 of 2015 is murder under Section 302 IPC. Thus, the two cases are dissimilar. When that be so, the subjective satisfaction arrived at by the detaining authority that there is likelihood of the detenu coming out on bail, is based on no materials. In such view of the matter, the detention order is liable to be quashed.

5. Accordingly, the habeas corpus petition is allowed and the detention order dated 07.09.2015, passed by the 2nd respondent is quashed. The detenu is directed to be set at liberty, forthwith, unless his presence is required in connection with any other case.

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Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

gms

To

1.The Secretary to Government
of Tamil Nadu, Home Prohibition & Excise
Department
Government of Tamil Nadu
Fort St.George
Secretariat, Chennai 600 009.

2.The Commissioner of Police
Egmore, Chennai 600 008.

3.The Public Prosecutor,
Madras High Court, Chennai.

4. The Superintendent, Central Prison,
Puzhal, Chennai-66.

5. The Joint Secretary to Government Public
(Law & order), Fort St. George, Chennai. 600 009.

H.C.P.No.2505 of 2015

KGK(CO)
EU 06.04.16



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