

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2016

CORAM

THE HON'BLE MR.JUSTICE S.NAGAMUTHU
and
THE HON'BLE MR.JUSTICE M.SATHYANARAYANAN

H.C.P.No.2606/2015

Ramakrishnan

... Petitioner /father of the
detenue

Vs

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

2.The Commissioner of Police,
Chennai City
Vepery
Chennai-600 007.

3.The Inspector of Police
R-10 M.G.R.Nagar Police Station
Chennai.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS to call for the records relating to the detention order passed by the second respondent pertaining to the order made in BCDFGISSSV No.934/2015 dated 17.09.2015, in detaining the detenu under 2(f) of Tamil Nadu Act 14 of 1982, as a "Goonda" and quash the same and direct the respondents to produce the detenu Kutta @ Guna @ Gunasekaran, S/o.Ramakrishnan, Male, aged 24 years, who is detained at Central Prison, Puzhal, Chennai, before this Court and to set him at liberty.

For Petitioner : Mr.N.S.Amarnath

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

ORDER

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

The petitioner has come up with this Habeas Corpus Petition, challenging the detention order passed against his son Kutta @ Guna @ Gunasekaran by the second respondent, vide proceedings No.BCDFGISSSV No.934/2015, dated 17.09.2015.

2. We have heard, Mr.N.S.Amarnath, the learned counsel appearing for the petitioner; Mr.A.N.Thambidurai, the learned Additional Public Prosecutor appearing for the State; and we have also perused the records carefully.

3. Though, several grounds were raised in the petition, the learned counsel appearing for the petitioner would mainly focus on the ground that the detenu was in remand in connection with the cases in R.10 M.G.R.Nagar Police Station Crime Nos.1593/2014, 2367/2014, 2678/2015 and 2698/2015 and he has filed bail applications in respect of the cases in Cr.Nos.2678 and 2698 of 2015 before the Court of Principal Sessions Judge, Chennai, in CrI.M.P.Nos.15155 and 15156 of 2015 respectively and the same were dismissed on 15.09.2015. When there were no bail applications pending in Crime Nos.2678 and 2698 of 2015, the detaining authority, by referring to various similar cases, has stated that the relatives of the detenu were taking steps to take the detenu on bail in Cr.Nos.2678 and 2698 of 2015 by filing bail applications before the appropriate Court, in which case there was very likely of the detenu coming out on bail. The learned counsel pointed out that to arrive at such a conclusion, there were no materials placed before the detaining authority at all.

4. The learned Additional Public prosecutor would submit that in the Special Report submitted by the Inspector of Police there is a statement to the effect that the relatives of the detenu were taking steps to file applications seeking bail in connection with the cases in Crime Nos.2678 and 2698 of 2015.

5. We have considered the above submissions. Admittedly, the detenu was in remand in connection with the cases in R.10 M.G.R.Nagar Police Station Crime Nos.1593/2014, 2367/2014, 2678/2015 and 2698/2015 and he has filed bail applications in respect of the cases in Cr.Nos.2678 and 2698 of 2015 before the Court of Principal Sessions Judge, Chennai, in CrI.M.P.Nos.15155 and 15156 of 2015 respectively and the same were dismissed on 15.09.2015. When there were no bail applications pending in Crime Nos.2678 and 2698 of 2015, the detaining authority, by referring to various similar cases, has stated that the relatives of the detenu were taking steps to take the detenu on bail in Cr.Nos.2678 and 2698 of 2015 by

filing bail applications before the appropriate Court. Admittedly, there were no materials available before the detaining authority, except the report of the Inspector of Police. Even the report of the Inspector of Police does not spell out as to how he came to know that the relatives were taking steps to file applications seeking bail. Full details as to who are those relatives, who were taking steps to file bail applications also have not been mentioned. Thus, in our considered view, without making proper application of mind relating to these facts, the detaining authority has passed the detention order. Therefore, we are inclined to set aside the same.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 17.09.2015, passed by the second respondent is set aside. The detenu is directed to be released forthwith unless his presence is required in connection with any other case.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Secretary, State of Tamil Nadu
Home, Prohibition and Excise Department
Secretariat, Chennai 600 009.
2. The Commissioner of Police,
Chennai City, Vepery
Chennai-600 007.
3. The Inspector of Police
R-10 M.G.R.Nagar Police Station
Chennai.
4. The Additional Public Prosecutor,
High Court, Madras.

5.The Superintendent
Central Prison,
Puzhal Chennai-66

6.The Joint Secretary to Government
Public Law and Order
Fort St.George Chennai-9

H.C.P.No.2606/2015

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