

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.2625/2015

Vignesh

.. Petitioner

Vs

1.State of Tamil Nadu
rep. by the Secretary
Home, Prohibition and Excise Department
Fort St.George
Chennai 600 009.

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

.. 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.1005/2015 dated 22.09.2015, 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 Karthick, S/o.Velusamy, Male, aged 23 years, who is detained at Central Prison, Puzhal, Chennai, before this Court and to set him at liberty.

For Petitioner : Mr.M.Kaveri Selvam

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 brother Karthik by the second respondent, vide proceedings in BCDFGISSSV No.1005/2015, dated 22.09.2015.

2. We have heard, Ms.M.Kaveri Selvam, 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 H-6 Dr.R.K.Nagar P.S.Cr.Nos. 879 of 2015, 1058/2015, 1060 of 2015 and 1242 of 2015 and he has filed bail applications in H-6 Dr.R.K.Nagar P.S.Cr.Nos. 879 of 2015, 1060 of 2015 and 1242 of 2015 before the Court of Principal Sessions Judge, Chennai, vide Crl.M.P.Nos. 15049 of 2015, 15048 of 2015 and 15047 of 2015 and bail was granted. The detenu has not moved any bail application in H-6 Dr.R.K.Nagar P.S.Cr.No.1058 of 2015. While so, 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.No.1058 of 2015 by filing bail application before the appropriate Court, in which case there was possibility 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 application seeking bail in connection with the case in Crime No.1058 of 2015.

5. We have considered the above submissions. Admittedly, the detenu was in remand in connection with the cases in H-6 Dr.R.K.Nagar P.S.Cr.Nos. 879 of 2015, 1058/2015, 1060 of 2015 and 1242 of 2015 and he has filed bail applications in H-6 Dr.R.K.Nagar P.S.Cr.Nos. 879 of 2015, 1060 of 2015 and 1242 of 2015 before the Court of Principal Sessions Judge, Chennai, vide Crl.M.P.Nos. 15049 of 2015, 15048 of 2015 and 15047 of 2015 and bail was granted. The detenu has not moved any bail application in H-6 Dr.R.K.Nagar P.S.Cr.No.1058 of 2015. While so, 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.No.1058 of 2015 by filing a bail application 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 application seeking bail. Full details as to who are those relatives, who were taking steps to file bail application 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 22.09.2015, 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.

Sd/-

Asst. Registrar (J)

/true copy/

Sub Asst. Registrar

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To

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

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

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

4. The Joint Secretary to Government
Public (Law and order) Fort Saint George,
Chennai

5. The Public Prosecutor,
High Court, Madras.

H.C.P.No.2625/2015

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