

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.5.2016

CORAM

THE HONOURABLE MR.JUSTICE G.CHOCKALINGAM

and

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

H.C.P. No.77 of 2016

Nandhakumar

.. Petitioner

Vs.

1.State of Tamilnadu

Rep. by its Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009

2.The Commissioner of Police,
Greater Chennai Police,
Vepery, Chennai

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for a Writ of Habeas corpus, to call for the entire records relating to the order of detention under Tamilnadu Act 14 of 1982 vide detention order dated 30.09.2015 on the file of the second respondent herein in proceedings no.1052/2015, quash the same as illegal and consequently direct the respondents herein to produce the detenu, namely, Prakash (a) Genga Prakash son of Gengamani aged 25 years before this Court and set him at liberty, now detained at Central Prison - II, Puzhal, Chennai - 600 066

For Petitioner : Mr.C.C.Chellappan

For Respondents: Mr.M.Maharaja
Addl. Public Prosecutor

O R D E R

(Order of the Court was made by G.CHOCKALINGAM, J.)

The petitioner is the friend of the detenu. The detenu has been branded as a "Goonda" as contemplated under Tamil Nadu Act 14 of 1982 and detained under Order passed by the second respondent in Memo No.1052/BCDFGISSSV/2015 dated 30.09.2015.

2. Though many grounds have been raised in the petition, Mr.C.C.Chellappan, learned counsel appearing for the petitioner, confines his argument only in respect of non-application of mind on the part of the detaining authority in passing the order of detention.

3. According to the learned counsel for the petitioner in paragraph no.4 of the grounds of detention, the detaining authority has observed that the detenu has moved a bail application for the Crime No.2248 of 2015 before the Principal Sessions Court, Chennai in Crl.M.P.No.9921 of 2015. Per contra, the outer page No.299 of the booklet reveals the Crl.M.P.Number as 9365 of 2015.

4.We have heard the learned Additional Public Prosecutor on the above point. He would submit that it is a typographical error and it will not affect the rights of the detenu.

5.At the foremost, the learned counsel appearing for the petitioner, by drawing our attention to the Crl.M.P.No.9365 of 2015 has submitted that for the Crime No.2248 of 2015, the detenu has moved bail application before the Principal Sessions Court, Chennai in Crl.M.P.No.9365 of 2015, which is available at outer page no.299 of the paper book supplied to the detenu, but in paragraph no.4 of the grounds of detention order, the detaining authority has wrongly mentioned the Crl.M.P.No.9921 of 2015 instead of Crl.M.P.No.9365 of 2015, which has deprived the detenu in making effective representation to the authorities concerned. Therefore, the subjective satisfaction arrived at by the detaining authority is not supported by any material and it vitiates the order of detention. For the above reasons, the order of detention is liable to be set aside.

6.Accordingly, the impugned detention order passed by the second respondent, detaining the detenu, namely, Prakash @ Genga Prakash made in Memo No.1052/BCDFGISSSV/2015 dated 30.09.2015 is quashed and the Habeas Corpus Petition is allowed. The above named detenu, who is detained in the Central Prison, Puzhal, Chennai is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

ssd

To

1. The Secretary to Government,
State of Tamilnadu
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009
2. The Commissioner of Police,
Greater Chennai Police,
Vepery, Chennai
3. The Superintendent
Central Prison, Puzhal,
Chennai
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.77 of 2016

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