

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.10.2017

Coram

THE HON'BLE MR.JUSTICE RAJIV SHAKDER
&
THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

H.C.P.No.1230 of 2017

Deepak
S/o.Yachob

... Petitioner

Vs.

1.State Rep. By
State of Tamil Nadu
Rep. By Secretary to State
Prohibition & Excise Department,
St. George Fort,
Chennai - 600 009.

2.The Commissioner of Police
Poonamallee High Road
Vepery
Chennai - 600 007.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling upon the production of the records relating to the detention order dated 15.04.2017 made in detention order Memo No.180/BCDFGISSSV/2017 passed by the 2nd respondent herien quash the same and direct the respondents to produce the body or person of the petitioner's friend Bathu @ Padmanaban son of Kumaravel aged about 27 years branded as Goonda and now confined in Central Priosn, Puzhal, Chennai before this Court and set him at liberty forthwith.

For Petitioner : Mr.C.Mohanraj
For Respondents : Mr.V.M.R.Rajentran,
Addl. Public Prosecutor.

O R D E R

(Order of the Court was made by N.SATHISH KUMAR, J)

The petitioner is the friend of the detenu, namely, Bathu @ Padmanaban, Son of Kumaravel, male aged about 27 years. The detenu has been detained by the second respondent by his order in No.180/BCDFGISSSV/2017 dated 15.04.2017, holding him to be a "Goonda", as contemplated under 2(f) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.

2. We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondents. We have also perused the records produced by the Detaining Authority.

3. The learned counsel for the petitioner made only one submission that though the detention order proceeds to state that steps are being taken by the relatives of the petitioner to file the bail application, the said statement is bereft of requisite particulars.

4. Per contra, the learned Additional Public Prosecutor while reiterating the averments in the counter affidavit would submit that the order of detention has been passed on cogent and sufficient materials and the same cannot be interfered with at the instance of the petitioner.

5. On a perusal of the impugned order of detention, we find that the Detaining Authority has stated that there was a real possibility of the detenu coming out on bail. Admittedly, at the time of passing the Detention Order, no bail application was pending in the adverse cases and the ground case. Though the detaining authority has made reliance on similar cases in which accused were granted bail, the facts involved in those cases are different. Hence, there is no material to substantiate that there is real possibility of the detenu coming out on bail and the said order was passed mechanically without application of mind. Therefore, on this ground, the detention order is liable to be set aside.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in No.180/BCDFGISSSV/2017 dated 15.04.2017, passed by the second respondent is set aside. The detenu, namely, Bathu @ Padmanaban, Son of Kumaravel, male aged about 27 years, is directed to be released forthwith unless his detention is required in connection with any other case. Given the nature of the case, this order will be communicated to the

concerned Jail Superintendent by the Registrar General of this Court via Fax.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

vsm

To

- 1.State of Tamil Nadu
Rep. By Secretary to State
Prohibition & Excise Department,
St. George Fort,
Chennai - 600 009.
- 2.The Commissioner of Police
Poonamallee High Road
Vepery
Chennai - 600 007.
- 3.The Superintendent,
Central Prison,
Puzhal, Chennai.
- 4.The Public Prosecutor,
Madras High Court,
Chennai.
5. The Joint Secretary to Government
Public law and Order
Fort St.George Chennai-9

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