

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2017

CORAM:

THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER
and

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

H.C.P.No.1344 of 2017

Panneer @ Panneerselvam ... Petitioner

-vs-

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

2.The District Collector and District Magistrate,
Krishnagiri,
Krishnagiri District. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, to call for the entire records relating to the detention order dated 15.05.2017 made in detention order S.C.No.26/2017 passed by the 2nd respondent herein, quash the same and direct the respondents to produce the body of detenu Thiru Panneer @ Panneerselvam, aged 25 years who has been detained in Central Prison at Salem before this Court and set him at liberty.

For Petitioner : Mr.C.Venkatesan
For Respondents : Mr. V.M.R.Rajentran
Additional Public Prosecutor

O R D E R

[Order of the Court was made by N.SATHISH KUMAR, J.]

1. The petitioner Panneer @ Panneer Selvam, Male, aged about 25 years. He has been detained by the second respondent by his order in S.C.No.26/2017 dated 15.05.2017, holding him to be a "Goonda", as contemplated under Section 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. Though several grounds have been raised in the Habeas Corpus Petition, the 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.

4. The learned counsel for the petitioner would submit that the detaining authority has passed the detention order pre-determined and without any application of mind. The learned counsel would further submit that the subjective satisfaction arrived by the 2nd respondent to invoke Tamil Nadu Act 14 of 1982, in detention case is deficient and erroneous. He would also states that the detaining authority has failed to see that the alleged admission and cases held against the detainee are all bogus and fabricated. The learned counsel therefore submits that from the above, it is clearly proved that the detention order was passed by the detaining authority non application of mind. Hence, the same may be quashed.

5. Per contra, the learned Additional Public Prosecutor while reiterating the averments 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.

6. Considering the submissions made on both sides, we are of the view that there is non-application of mind on the part of the detaining authority in passing the order. The detainee was arrested on 9.4.2017. There are 8 cases registered against him continuously from the date of arrest. In some of the cases, he was arrested formally while he was in remand. Admittedly, in all the cases he never moved bail. The detaining authority considered a similar case of one Mr. Mani in Cr.No.812 of 2016 of Dharmapuri Police Station, and also one Krishnan in Cr.No.514 of 2016 of Krishnagiri Taluk Police Station were released on bail and inferred that there is a likelihood of release of the detainee, which clearly shows the non application of mind on the part of the detaining authority. When bail application is pending, mere inference without any materials cannot be sustained in law, particularly when the liberty of the petitioner is curtailed to detain a person. There must be subjective satisfaction of detaining authority on the basis of proper materials. However, the orders passed mechanically without any materials and suffers from non application of mind on the part of the detaining authority.

7. Further notice was issued on 26.7.2017 to the respondents. But they have not filed any counter affidavit. All these facts would clearly shows that there is a non application of mind on the part of the detaining authority. In such view of the matter, the impugned detention order is liable to be quashed.

8. In the result, the Habeas Corpus Petition is allowed and the order of detention in S.C.No.26/2017, dated 15.05.2017, passed by the second respondent is set aside. The detenu, i.e., Tr. Panneer @ Panneer Selvam male, aged about 25 years S/o. Thiru.Chinnapaiyan @ Periasamy 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 III)

//True Copy//

Sub Assistant Registrar

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To

1. Secretary to Government,
Home, Prohibition & Excise Department,
Fort St. George, Chennai - 600 009.
2. The District Collector and District Magistrate,
Krishnagiri,
Krishnagiri District.
3. The Joint Secretary,
Public, Law and Order Department,
Fort St.George,
Chennai-09
4. The Superintendent, Central Prison,
Salem.
5. The Public Prosecutor
High Court, Madras.

+1cc to Mr.C.Venkatesh, Advocate Sr. 77269

VR(01/11/2017)

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