

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:12.05.2017

CORAM

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN
and
THE HONOURABLE MR.JUSTICE S.BASKARAN

H.C.P No.20 OF 2017

Karthick @ Karthikeyan, M/A 37 years,
S/o Maruthai Asari.

...Petitioner

Vs

1.The State of Tamil Nadu,
Rep.by the Secretary to Government,
Home, Prohibition & Excise Department,
Fort St.George, Chennai-9.

2.The Commissioner of Police/Detaining Authority,
Tiruppur City.

...Respondents

Prayer: Habeas Corpus Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus to direct the respondents herein to produce the petitioner by name Karthick @ Karthikeyan, S/o Maruthai Asari, aged 37 years, before this Court now confined in Central Prison, Coimbatore set him at liberty and to call for the records pertaining to the orders of detention passed by the 2nd respondent in Memo C.No.18/G/IS/2016, dated 12.11.2016 passed by the 2nd respondent and set aside the same.

For Petitioner : Mr.T.Muruganantham

For respondents: Mr.V.M.R. Rajentren,
Addl. Public Prosecutor

ORDER

(Order of the Court was made by M.V.MURALIDARAN, J.,)

The petitioner has challenged the order of detention dated 12.11.2016 made in Memo No.C.No.18/G/IS/2016, passed by the second respondent, under which he has been branded as a 'Goonda' and detained under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand offenders, Slum-

Grabbers and Video Pirates Act, 1982 (hereinafter referred to as Tamil Nadu Act 14 of 1982) r/w G.O(D) No.191, Home Prohibition and Excise (XVI) Department, Dated 18.10.2016.

2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents 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 though the petitioner has not moved any bail application in Crime No.815 of 2016 i.e. the ground case, the detaining authority has stated in para 9 that there is a real possibility of the detenu coming out on bail. The learned counsel pointed out that to arrive at such a conclusion, there was no material placed before the detaining authority at all.

4. Per contra, learned Additional Public Prosecutor would submit that there is no illegality or infirmity in the impugned Detention Order. It is contended that the Detaining Authority has rightly passed the detention order by arriving at the subjective satisfaction to the effect that there is real possibility of the detenu to come out on bail and on such an event, he would indulge in such further activities, which will be prejudicial to the maintenance of public order and as such, it cannot be stated that the Detention Order was passed without application of mind or without any cogent materials available on record.

5. We have considered the above submissions. Admittedly, as on the date of passing of the detention order, there was no application filed by the detenu seeking bail in Crime No.815 of 2016 on the file of Anupparpalayam Police Station. Though it is alleged that there is a real possibility of the petitioner/detenu coming out on bail, there were no materials available before the detaining authority in respect of such bail application. 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. In the result, this Habeas Corpus Petition is allowed and the impugned detention order made in C.No.18/G/IS/2016, dated 12.11.2016, is set aside. The detenu - Karthik @ Karthikeyan, S/o Maruthai Asari, is directed to be set at liberty forthwith, unless his custody is required in connection with any other case. However, this order shall not preclude the prosecution from conducting cases effectively and shall not confer any right

to the detenu before the Regular Court.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

- 1.The State of Tamil Nadu,
Rep.by the Secretary to Government,
Home, Prohibition & Excise Department,
Fort St.George, Chennai-9.
- 2.The Commissioner of Police/Detaining Authority,
Tiruppur City.
3. The Superintendent Central Prison
Coimbatore
4. The Joint Secretary to Government
Public Law and Order
Fort St.George Chennai-9
5. The Public Prosecutor, High Court, Chennai.

+1 cc to M/s.T.Muruganantham Advocate sr 37382

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H.C.P.No.20 of 2017

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