

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.05.2017

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
and
THE HONOURABLE MR.JUSTICE R.MAHADEVAN

Habeas Corpus Petition No.99 of 2017

Selvi Jamunarani

... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep by it's Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai 600 009.

2. The Commissioner of Police,
Greater Chennai.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, calling for the records relating to the detention order passed by the second respondent dated 04.10.2016 in Memo No.1096/BCDFGISSSV/2016 against the petitioner/detenué Jamunarani D/o.Lakshminarayanan, female, aged about 50 years, who is now confined at Special prison for women, Puzhal, Chennai and set aside the same and direct the respondents to produce her before this Court and set her at liberty.

For Petitioner : Mr.J.Sivaganesh

For Respondents : Mr.E.Raja,
Additional Public Prosecutor

WEB COPY
O R D E R
[Order of the Court was made by M.M.SUNDRESH, J.]

Seeking to quash the detention order in Memo No.1096/BCDFGISSSV/2016 dated 04.10.2016 passed by the second respondent under the provisions of the Tamil Nadu Act 14 of 1982 branding the petitioner/detenué Jamunarani D/o.Lakshminarayanan, female, aged about 50 years as a "Goonda", the petitioner/detenué is before this Court with this Habeas Corpus Petition.

2.The learned counsel for the petitioner would submit that the petitioner is alleged to have involved in the offence punishable under Section 302 IPC in Cr.No.909 of 2016 on the file of R-8 Vadapalani Police Station and filed bail application in CrI.M.P.No.16107 of 2016, which was dismissed on 28.09.2016. A subsequent bail application was filed in CrI.M.P.No.16443 of 2016 and the same is still pending. It is further stated that, in similar cases, bails are granted after a lapse of time hence, there is a likelihood of petitioner/detenué coming out on bail.

3.The learned counsel for the petitioner would submit that there is no previous case, in which, the petitioner has involved. The petitioner is a lady. There is no real possibility of petitioner/detenué coming out on bail based upon the materials, upon which, the subjective satisfaction has been arrived at by the detaining authority.

4.The learned Additional Public Prosecutor appearing for the State would submit that, after considering the nature of the allegations, the detention order has been passed. Therefore, no interference is required at the hands of this Court to set aside the detention order.

5.In our considered view, mere pendency of the bail application filed by the detenué cannot be a ground for the detaining authority to come to a subjective conclusion that there is a real possibility of the detenué coming out on bail. Further, the similar case particulars relied on by the detaining authority is in respect of the offences punishable under Sections 341 and 302 I.P.C., however, the petitioner has involved for alleged offence under Section 302 I.P.C. Except that, it is stated that in similar case, bail has been granted. There is no such similarity.

6.Secondly, the statement, that in similar cases, bail orders have been granted after a lapse of time. This cannot be a ground to pass the detention order. The detention order is not to be passed on the sole prediction of the detenué getting bail.

7.It is also not known as to whether the similar case relied upon by the detaining authority was passed earlier or consequent to the dismissal of the first bail application filed by the petitioner/detenué. Therefore, we find total non-application of mind on the part of the detaining authority in passing the detention order and hence the same requires interference at the hands of this Court. In such view of the matter, we are inclined to set aside the detention order dated 04.10.2016, passed by the second respondent.

8. Accordingly, the Habeas Corpus Petition is allowed and the detention order dated 04.10.2016, passed by the second respondent, is quashed. The detainee is directed to be set at liberty, forthwith, unless her presence is required in connection with any other case.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

cla/sts

To

1. The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai 600 009.
2. The Commissioner of Police,
Greater Chennai.
3. The Superintendent,
Special Prison for Women,
Puzhal, Chennai.
4. The Joint Secretary to Government,
Public(Law & Order),
Fort Saint George, Chennai - 9.
5. The Public Prosecutor,
Madras High Court, Chennai.

+1cc to Mr.J.Sivaganesh, Advocate, S.R.No.38141

H.C.P.No.99 of 2017

KJI(CO)
CA(16/06/2017)

WEB COPY