

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2017

CORAM

THE HON'BLE MR.JUSTICE S.NAGAMUTHU
and
THE HON'BLE DR.JUSTICE ANITA SUMANTH

H.C.P.No.2092 of 2016

Mr.Duraisamy

...Petitioner

versus

1.The Secretary to Government,
Home,
Prohibition & Excise Department,
Secretariat,
Chennai - 9.

2.Commissioner of Police,
Vepery,
Chennai.

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS to call for the records in Connection with the order of Detention passed by the second respondent in BDFGISSV No.1014/2016 dated 02.09.2016 against the detenu namely Kumaravel @ Kumar, son of Duraisamy, aged about 24 years, who is now confined at Central Prison, Puzhal and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.M.Mohana Sundaram

For Respondents : Mr.V.M.R.Rajentren,
Additional Public Prosecutor

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O R D E R

[Order of the Court was made by S.NAGAMUTHU, J.]

The petitioner has come up with this Habeas Corpus Petition challenging the detention order passed by the second respondent detaining one Kumaravel @ Kumar, son of Duraisamy, aged about 24 years, under Act 14 of 1982 branding him as GOONDA.

2.The learned counsel for the petitioner would submit that according to the detention order, the detenu has involved in a case in Crime No.728/2016 for offences under Sections 147, 148, 448, 302 I.P.C. The detaining authority has come to the conclusion that there was real possibility of the detenu coming out on bail because, in similar case registered in F-1 Chintadripet Police Station Cr.No.809/2014, bail was granted by the Principal Sessions Court, Chennai for the accused in the said case. In this regard, the learned counsel would place reliance on a judgment of the Hon'ble Supreme Court in Huidrom Konungjao Singh v. State of Manipur and others (Criminal Appeal No.840 of 2012 dated 17.05.2012) wherein, in paragraph No.14, it has been held as follows:-

"14.In the instant case, admittedly, the said bail orders do not relate to the co-accused in the same case. The accused released in those cases on bail had no concern with the present case. Merely, because somebody else in similar cases had been granted bail, there could be no presumption that in the instant case had the detenu applied for bail could have been released on bail. Thus, as the detenu in the instant case has not moved the bail application and no other co-accused, if any, had been enlarged on bail, resorting to the provisions of Act was not permissible. Therefore, the impugned order of detention is based on mere ipse dixit statement in the grounds of detention and cannot be sustained in the eyes of law".

3.In view of the judgment of the Hon'ble Supreme Court, in the instant case, as the grant of bail by the Sessions Court relating to the other accused has got nothing to do with the present case. Hence, we are inclined to quash the detention order passed by the second respondent.

4.Accordingly, the Habeas Corpus Petition is allowed and the detention order dated 02.09.2016, passed by the second respondent is quashed. The detenu is directed to be set at liberty, forthwith, unless his presence is required in connection with any other case.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

To

1.The Secretary to Government,
Home,
Prohibition & Excise Department,
Secretariat,
Chennai - 9.

2.Commissioner of Police,
Vepery,
Chennai.

3.The Additional Public Prosecutor,
High Court, Madras.

4.The Superintendent, Central Prison, Puzhal, Chennai.
(Induplicate for communication to detenu)

5.The Joint Secretary to Government, Public(Law & Order),
Fort St.George, Chennai-9.

H.C.P.No.2092 of 2016

sj(co)
ss(2/5/2017)



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