

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 28.06.2018

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA
AND
THE HONOURABLE MRS. JUSTICE S.RAMATHILAGAM

H.C.P. NO. 1220 OF 2018

Isakiraja

.. Petitioner

- Vs -

1. The Superintendent
Central Prison, Puzhal
Chennai.
2. Thiru. Rajkumar
Head Constable
Striking Force, Central Prison
Puzhal, Chennai.

.. Respondents

Petition filed for the issuance of a writ of habeas corpus directing the 1st respondent to produce the detenu, Isakiraja, S/o Muthuraja, aged 35 years, before this Hon'ble Court and set her at liberty.

For Petitioner : Mr. S.Tamilvendhan

For Respondents: Mr. R.Prathap Kumar, APP

ORDER

(DELIVERED BY DR. S.VIMALA, J.)

The detenu himself, as petitioner, filed the present petition stating that he is not able to produce sureties, as directed by the 5th Metropolitan Magistrate, Chennai and, therefore, has prayed this Court to issue a writ directing the 1st respondent to produce the detenu before this Court and to set him at liberty.

2. It is seen from the supporting affidavit that M-3, Puzhal Police registered a case in Crime No.395/2018 against the detenu for the offence u/s 42 of the Prison Act. After registering the case, it is alleged that the 2nd respondent used to visit the petitioner and attacked him in jail and he is not able to tolerate the ill-treatment meted out to him.

3. Even though the petitioner has been granted bail by the 5th Metropolitan Magistrate directing him to produce two blood sureties, each for a sum of Rs.10,000/-, the petitioner is not able to come out on bail, because, he has no blood relatives at all and, therefore, he is not able to produce the blood sureties. In the above circumstances, it is contended that the detention would amount to illegal detention and, therefore, the present petition has been filed.

4. Heard Mr. Tamilvendhan, learned counsel appearing for the petitioner and Mr.R.Prathap Kumar, learned Addl. Public Prosecutor appearing for the respondents.

5. Considering the allegations made in para-4 of the affidavit and considering the possibility of likelihood of ill-treatment as alleged in the petition, more so when the case has been registered u/s 42 of the Prison Act, we feel that it would be appropriate to shift the petitioner to some other prison within Chennai.

6. In the above circumstances, this Court directs the respondents to transfer the petitioner from Central Prison, Puzhal, Chennai, to Sub-Jail, Saidapet, Chennai. It is further made clear that the authorities at Sub-Jail, Saidapet, Chennai, shall ensure that there shall be no complaint of ill-treatment to the petitioner herein while detained in the jail.

7. It is further made clear that the petitioner is at liberty to move the concerned Magistrate for change of bail conditions, which are imposed at the time of grant of bail. Needless to point out that the Supreme Court, in a catena of decisions has pointed out that if the person is not able to produce the sureties, the Court should be very lenient in ordering execution of the bond by the detenu/accused himself. We hold that the Trial Court will consider this legal issue when appropriate application is moved before it for change of bail conditions.

6. With the above observations, this habeas corpus petition is closed.

s/d-

Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

GLN

To

1. The Secretary to Government
Government of Tamil Nadu
Home, Prohibition & Excise Dept.
Fort St. George, Chennai 600 009.
 2. The Superintendent of Police
Central Prison, Puzhal, Chennai.
 3. The Joint Secretary to Government
Public (Law and order)
Fort. St. George
Chennai 9.
 4. The Inspector of Police
K-11, C.M.P.T. Police Station
Koyambedu, Chennai 107.
 5. The Public Prosecutor
High Court, Madras 104.
- +1 CC to Mr.G. Ganapathy, Advocate sr 41818.

RV(CO)
SP(02/07/2018)

H.C.P. NO.1220 OF 2018

सत्यमेव जयते

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