

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2018

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM
and
THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

H.C.P.No.1527 of 2018

G.N.Malika
W/o.S.Nandakumar

... Petitioner

-vs-

1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai.

2.The Commissioner of Police,
Greater Chennai,
Vepery, Chennai - 600007.

... Respondents

HCP under Article 226 of the Constitution of India filed praying for issuance of a Writ of Habeas Corpus calling for the records relating to the impugned order of detention dated 22.05.2018 in Memo No.344/2018 passed by second respondent herein and quash the same and consequently direct the respondents to set forth the detenu N.Prakash S/o.S.Nandakumar, now confined at Central Prison, Puzhal, Chennai and set him at liberty.

For Petitioner : Mr.N.R.Elango, senior counsel
for Mr.A.Selvendran

For Respondents: Mr.M.Mohamed Riyaz
Additional Public Prosecutor

O R D E R

(The order of the Court was made by C.T.SELVAM, J)

Petitioner is the mother of the detenu Prakash S/o.Nandhakumar, who has been branded as a "Goonda" under the Tamil Nadu Act 14 of 1982 and detained under order of the second respondent passed in BCDFGISSSV No.344/2018 dated 22.05.2018.

2. The detenu came to adverse notice in Crime No.2007/2017 on the file of E-3 Teynampet Police Station for offences u/s.406, 365, 342, 324, 384, 506(ii) IPC @ 147, 148, 365, 406, 342, 324, 323, 384, 506(ii) IPC and 307, 394 r/w 34 IPC. The alleged ground case has been registered against the detenu in Crime No.340 of 2018 on the file of E-3 Teynampet Police Station, for offences under Sections 147, 148, 353, 506(ii) 120 (b) IPC r/w 25(1-B)a of Arms Act, 1959 and 34 IPC. Aggrieved by the order of detention, the present writ petition has been filed.

3. Heard learned senior counsel for petitioner and learned Additional Public Prosecutor for respondent. Perused the materials on record.

4. The detention order was of date 22.05.2018. A representation has been made by the mother of the detenu on 11.06.2018 wherein it inter alia has specifically been stated as follows in paragraph No.4:

'4. I respectfully submit that the then Assistant Commissioner of Police Mr.Muthazhalagu had interfered into the investigation of the case in Crime No.2007/2017 and started demanding bribe and got some money from my son and others and the matter has been went upto Vigilance enquiry after the audio recording has been leaked in print Media as well as in Digital Media and based on the issue the then Assistant Commissioner of Police Mr.Muthazhalagu has been transferred and the enquiry is still pending hence due to the act of vengeance and by the instigation this detention order has been passed.'

In rejecting the representation seeking revocation of the order of detention dated 22.05.2018, the first respondent, has whispered not thereabout. The non-consideration of that which might have a most material bearing on the propriety or otherwise of the detention order renders poor the order of detention.

For the aforesaid reason, the Habeas Corpus Petition is allowed and the impugned detention order passed by the second respondent, detaining the detenu Prakash S/o.Nandhakumar in BCDFGISSSV No.344/2018 dated 22.05.2018 is quashed. The above named detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

gm

To

- 1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai.
 - 2.The Commissioner of Police,
Greater Chennai,
Vepery, Chennai - 600007.
 - 3.The Public Prosecutor
High Court, Chennai.
 - 4.The Superintendent of Police,
Central Prison,
Puzhal, Chennai.
(In duplicate for Communication for detenue)
 5. The Joint Secretary to Government Public (Law and Order)
Fort. St. George, Chennai-9.
- + 1 cc to Mr. A.Selvendran, Advocate Sr.61695

H.C.P.No.1527 of 2018

JP(CO)
EU(22/10/2018)



WEB COPY