

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.10.2018

CORAM:

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

H.C.P.No.1055 of 2018

Munusamy
S/o.Vaithiyalingam

...Petitioner

-Vs-

1. State of Tamil Nadu,
represented by the
Secretary, Home, Prohibition and
Excise Department,
Fort St.George, Chennai - 600009.

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

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the records relating to the detention order in Memo No.259/BCDFGISSSV/2018 dated 26.04.2018 passed by the second respondent under the Tamil Nadu Act 14 of 1982 and set aside the same and direct the respondents to produce the petitioner's son Sundar S/o.Munusamy, aged about 22 years, the detenu, now confined at Central Prison, Puzhal, Chennai, before this Court and set the petitioner's son Sundar S/o.Munusamy, aged about 22 years, the detenu herein at liberty.

For Petitioner : Mr.D.Gopi Krishnan

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

O R D E R
[Order of the Court was made by C.T.SELVAM, J]

Petitioner is the father of detenu Sundar S/o.Munusamy, who has been branded as a 'Goonda' under the Tamil Nadu Act 14 of 1982 and detained under order of second respondent passed in No.259/BCDFGISSSV/2018 dated 26.04.2018.

2. The detenu came to adverse notice in the following cases:

Sl.No	Police Station and Crime No.	Offences u/s.
1.	E.5 Foreshore Estate Police Station, Crime No.130/2018	457 and 380 IPC
2.	E.1 Mylapore Police Station, Crime No.168/2018	457 and 380 IPC
3.	E.1 Mylapore Police Station, Crime No.200/2018	379 IPC
4.	F3 Nungambakkam Police Station, Crime No.212/2018	457 and 380 IPC

The alleged ground case has been registered against the detenu in Crime No.142 of 2018 on the file of E.5 Foreshore Estate Police Station for offences under sections 341, 294(b), 336, 392, 397 and 506(ii) IPC. Aggrieved by the order of detention, the present writ petition has been filed.

3. Amidst several grounds raised, learned counsel for petitioner submits that the detaining authority while noticing that the detenu is in remand in both adverse and ground cases and has moved bail application in the ground case and in adverse cases except Crime No.212 of 2018 on the file F3 Nungambakkam Police Station and the same are pending, he had informed that the relatives of the detenu were taking efforts to move bail application to take him out on bail in Crime No.212 of 2018 and therefore, there was a real possibility of his coming out on bail and if he comes out on bail, he will indulge in further activities which will be prejudicial to the maintenance of public order. Though the detaining authority has informed of an effort by the relatives to move bail petition for the release of the detenu, there is no material to support such contention.

4. We have heard learned Additional Public Prosecutor on the above submissions and also perused the records.

5. We find that there absolutely is no material which would disclose the likelihood of the relatives of the detenu moving bail petition on his behalf in respect of the adverse case in

Crime No.212 of 2018. Therefore, the non-application of mind and erroneous subjective satisfaction arrived at by the detaining authority is apparent.

Accordingly, the impugned detention order passed by second respondent, detaining the detenu, namely, Sundar S/o.Munusamy, made in No.259/BCDFGISSSV/2018 dated 26.04.2018, is quashed and the Habeas Corpus Petition is allowed. 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(CS IX)

//True Copy//

Sub Assistant Registrar

gm

To

- 1.The Secretary, Home, Prohibition and
Excise Department,
Fort St.George, Chennai - 600009.
- 2.The Commissioner of Police,
The Commissioner Office,
Vepery, Chennai - 600007.
- 3.The Public Prosecutor,
High Court, Madras.
- 4.The Superintendent of Central Prison,
Puzhal, Chennai.
- 5.The Joint Secretary to Government of Tamil Nadu
Public (Law and Order) Department,
Fort St.George, Chennai.

H.C.P.No.1055 of 2018

rrs 31/10/2018

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