

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.1058 of 2018

Punniyakodi
S/o.Kalidoss

... Petitioner

vs.

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

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

... Respondents

Writ 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 in Memo No.314/BCDFGISSSV/2018 dated 09.05.2018 passed by 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 John S/o.Punniyakodi aged about 23 years, the detenu, now confined at Central Prison, Puzhal, Chennai, before this Court and set the petitioner's son John S/o.Punniyakodi, aged about 23 years, the detenu herein at liberty.

For Petitioner : Mr.T.V.Somasundaram

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 the detenu John S/o.Punniyakodi, who has been branded as 'Goonda' under the Tamil Nadu Act 14 of 1982 and detained under orders of second respondent passed in No.314/BCDFGISSSV/2018 dated 09.05.2018. Such order is under challenge herein.

2. The detenu came to adverse notice in Crime No.278/2018 on the file of P3 Vyasarpadi Police Station for offences u/s.147, 148, 341, 294(b), 324, 307 and 506(ii) IPC. The alleged ground case has been registered against the detenu in Crime No.287 of 2018 on the file of P3 Vyasarpadi Police Station for offences u/s.147, 148, 341, 294(b), 336, 397, 506 (ii) IPC and 3 of TNPPDL Act, 1992.

3. We have heard learned counsel for petitioner and learned Additional Public Prosecutor for respondents. Perused the materials on record.

4. The detaining authority noticed that the detenu is in remand in both adverse and ground case and has moved a bail application in the ground case and bail was granted but since he could not execute sureties, he is still in prison and hence, there is every likelihood of detenu coming out on bail by offering proper sureties and if he comes out on bail, he will indulge in further activities which will be prejudicial to the maintenance of public order. Once an order of bail has been granted and is pending execution of sureties, then the detaining authority cannot interdict the order of this Court granting bail by passing the order of detention. For the said reason, the order under challenge would have to fall.

Accordingly, the Habeas Corpus Petition is allowed and the detention order passed by the second respondent against the detenu viz., John S/o.Punniyakodi, in No.314/BCDFGISSSV/2018 dated 09.05.2018 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(CS II)

//True Copy//

Sub Assistant Registrar

gm
To

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

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

3.The Public Prosecutor,
High Court, Madras.

4.The Superintendent,
Central Prison,
Puzhal, Chennai.

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

GP(CO)
sm:13.11.2018