

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.10.2018

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

and

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

H.C.P.No.1415 of 2018

Jayaraman
S/o.Masi

...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,
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.408/BCDFGISSSV/2018 dated 20.06.2018 passed by second respondent under the Tamil Nadu Act 14 of 1982 and set aside the same and direct the respondent to produce the petitioner's son Parameswaran S/o.Jayaraman, aged about 24 years, the detenu, now confined at Central Prison, Puzhal, Chennai, before this Court and set the petitioner's son Parameswaran S/o.Jayaraman, aged about 24 years, the detenu herein at liberty.

For Petitioner : Mr.N.S.Amarnath

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 Parameswaran S/o.Jayaraman, who has been branded as "Goonda" under the Tamil Nadu Act 14 of 1982 and detained under orders of second respondent passed in BCDFGISSSV No.408/2018 dated 20.06.2018. Such order is under challenge herein.

2. The detenu came to adverse notice in Crime No.349 of 2018 on the file of E-3 Teynampet Police Station for offences u/s.147, 148, 342, 307 and 302 IPC. The alleged ground case has been registered against the detenu in Crime No.350 of 2018 on the file of E-3 Teynampet Police Station for offences u/s.147, 148, 341, 294(b), 385, 427, 336, 392, 397 and 506(ii) IPC.

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 both in adverse and ground case and the bail application moved by him in the adverse case is pending and in the ground case, 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. 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 second respondent against the detenu Parameswaran S/o.Jayaraman, in BCDFGISSSV No.408/2018 dated 20.06.2018 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 VII)

//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,
Greater Chennai City,
Vepery, Chennai - 600007.

3.The Public Prosecutor,
High Court, Madras.

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

(In duplicate for communication to Detenu)

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

H.C.P.No.1415 of 2018

SAI (CO)

rrs 27/11/2018