

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2018

CORAM:

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

H.C.P.No.428 of 2018

Aravindan @ Sevittu Aravindan
S/o.Radhakrishnan

... Petitioner

-Vs-

1.The Principal Secretary to Government Home,
Prohibition and Excise Department,
Chennai - 600009.

2.The Commissioner of Police,
Greater Chennai.

3.The Inspector of Police,
Law and Order,
R-1 Mambalam Police Station.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the records made in detention order in BCDFGISSSV No.739/2017 dated 21.11.2017 issued by the second respondent and set aside the same as illegal for a direction directing the respondents herein to produce the body and person of detenu Aravindan @ Sevittu Aravindan S/o.Radhakrishnan, aged about 30 years, who is confined at Central Prison, Puzhal II, Chennai - 600066, before this Court and set him at liberty.

For Petitioner : Mr.B.Chandran

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, who is the detenu, 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.739/2017 dated 21.11.2017.

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

Sl.No .	Police Station and Crime No.	Sections of Law
1.	R-1 Mambalam Police Station, Crime No.1682/2017	341, 294(b), 392 and 506 (ii) IPC
2.	R-1 Mambalam Police Station, Crime No.1684/2017	341, 294(b), 324, 307 and 506(ii) IPC

The alleged ground case has been registered against the detenu in Crime No.1685 of 2017 on the file of R-1 Mambalam Police Station for offences under sections 341, 294(b), 336, 427, 307 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 stands remanded to judicial custody in case registered in Crime Nos.1682, 1684 and 1685 of 2017 on the file of R-1 Mambalam Police Station, had informed that the detenu has filed bail application in Crime No.1682 of 2017 in CrI.M.P.No.4768 of 2017 on the file of learned XVIII Metropolitan Magistrate, Saidapet, Chennai and has not moved any bail application in Crime No.1684 and 1685 of 2017. However, the detaining authority had informed that the relatives of the detenu were taking efforts to move application to take him out on bail 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 Crime Nos.1684 and 1685 of 2017. 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 the second respondent, detaining the detenu, namely, Aravindan @ Sevittu Aravindan S/o.Radhakrishnan, made in BCDFGISSSV

No.739/2017 dated 21.11.2017, 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 VI)

//True Copy//

Sub Assistant Registrar

gm

To

- 1.The Principal Secretary to Government Home,
Prohibition and Excise Department,
Chennai - 600009.
- 2.The Commissioner of Police,
Greater Chennai.
- 3.The Inspector of Police,
Law and Order,
R-1 Mambalam Police Station.
- 4.The Public Prosecutor,
High Court, Madras.
- 5.The Superintendent,
Central Prison,
Puzhal, Chennai - 66.
- 6.The Joint Secretary Public (Law & Order),
Fort Saint George,
Chennai.

+1cc to Mr.B.Chandran, Advocate, S.R.No.54226.

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rrs 14/09/2018.