

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2018

CORAM:

THE HONOURABLE MR.JUSTICE C.T.SELVAM
and
THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

H.C.P.No.2021 of 2018

Srinivasan
S/o.Ravi

... Petitioner

-Vs-

1.State of Tamil Nadu, represented by
The Secretary to Government,
Department of Home, prohibition and Excise,
Secretariat, Fort St.George,
Chennai.

2.The Commissioner of Police,
Greater Chennai,
Office of Commissioner of Police,
Vepery, Chennai-7

....Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the records in Memo No.751/BCDFGISSSV/2018 passed by the second respondent on 25.08.2018, set aside the same and direct the respondents to produce the detenu Srinivasan S/o.Ravi, aged about 24 years, presently confined in the Central Prison, Puzhal-II, Chennai.

For Petitioner : Mr.G.Mohanakrishnan

For Respondents: Mr.R.Prathap Kumar
Additional Public Prosecutor

O R D E R

[Order of the Court was made by C.T.SELVAM, J]

Petitioner, who is the detenu Srinivasan S/o.Ravi, has been branded as a "Goonda" under the Tamil Nadu Act 14 of 1982 and detained under order of the second respondent passed in No.751/BCDFGISSSV/2018 dated 25.08.2018.

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

Sl.No .	Police Station and Crime No.	Sections of Law
1.	K-1 Sembium Police Station Cr.No.904/2018	147, 148, 341, 294(b), 323, 324, 307 and 506 (ii) IPC

The alleged ground case has been registered against the detenu in Crime No.906 of 2018 on the file of K-1 Sembium Police Station for offences under sections 147, 148, 341, 294(b), 336, 397 and 506(ii) IPC. Aggrieved by the order of detention, the present Writ Petition has been filed.

3. Heard learned counsel for petitioner and learned Additional Public Prosecutor.

4. The detaining authority while noticing that the detenu was remanded in both adverse and ground case and the bail applications moved by the detenu in Crl.M.P.Nos.13530 and 13531 of 2018 on the file of learned Principal Sessions Judge, Chennai, were pending, he had informed that in a similar case bail has been granted by learned Principal Sessions Chennai, in Crl.M.P.No.5852/2016 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. This Court, under orders in H.C.P.No.1520 of 2017 dated 04.12.2017, has held thus:

'5(ii). . . . The Detaining Authority, according to us, had wrongly entertained an apprehension that the detenu would be released on bail, by adverting to the fact that in similar cases, bail was granted. According to us, this is not have been taken as the basis to come to such a conclusion. In granting bail the Court inter alia takes into account several aspects most of which are case specific. Those would include the gravity of the offence, the ability to suborn witnesses and the likelihood of the accused fleeing from justice. The "similarity case" yardstick applied by the Detaining Authority, based on the provisions of law under which an accused is booked, cannot be a satisfactory indicator for coming to the conclusion that the likelihood of the detenu being enlarged on bail was real and imminent.'

We are in agreement with the above finding. For the said reason, the order under challenge would have to fall.

The Habeas Corpus Petition is allowed and the impugned detention order passed by second respondent, detaining the detenu Srinivasan S/o.Ravi in No.751/BCDFGISSSV/2018 dated 25.08.2018 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.

-s/d-

Deputy Registrar

True Copy

Sub-Assistant Registrar

gm/rst
To

- 1.The Secretary to Government,
Department of Home, Prohibition and Excise,
Secretariat, Fort St.George,
Chennai.
- 2.The Commissioner of Police,
Greater Chennai,
Office of Commissioner of Police,
Vepery, Chennai-7
- 3.The Superintendent of Prison,
Central Prison,
Puzhal, Chennai.
- 4.The Public Prosecutor,
High Court, Madras.

+1 CC to Mr.G.Mohanakrishnan, Advocate sr 87693.

सत्यमेव जयते

H.C.P.No.2021 of 2018

SP(24/01/2019)

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