

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.2091 of 2018

Rani
W/o.Mohan

... Petitioner

-Vs-

1.State of Tamil Nadu,
Rep. by its Seretary to Government,
Department of Prohibition and Excise (Home),
Fort St.George,
Chennai-600 009.

2.The Commissioner of Police,
Chennai City Police, Greater Chennai,
Commissioner Office, Vepery,
Chennai-600 007.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, to call for the records in No.756/BCDFGISSSV/2018 dated 25.08.2018 on the file of second respondent herein and set aside the same as illegal and produce the detenu Sandeep Kumar, son of Mohan, aged about 25 years, who is confined at Central Prison, Puzhal, Chennai, before this Honourable Court and set him at liberty.

For Petitioner: Mr.Ilayaraja Kandasamy

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 is the mother of detenu Sandeepkumar S/o.Mohan, 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.756/BCDFGISSSV/2018 dated 25.08.2018.

2. The alleged ground case has been registered against the detenu in Crime No.671 of 2018 on the file of K-4 Anna Nagar Police Station for offences under sections 147, 148, 149, 341,

302 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 Crime No.671 of 2018 and has not moved any bail application, 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.671 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 Crime No.671 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, Sandeepkumar S/o.Mohan, made in No.756/BCDEFGISSSV/2018 dated 25.08.2018, 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.

-s/d-

Deputy Registrar

True Copy

Sub-Assistant Registrar

gm/rst

To

1.The Secretary,
The State of Tamil Nadu,
Department of Prohibition and Excise (Home),
Fort St.George,
Chennai-600 009.

2.The Commissioner of Police,
Chennai City Police, Greater Chennai,
Commissioner Office, Vepery,
Chennai-600 007.

3.The Superintendent of Central Prison,
Puzhal, Chennai.

4.The Public Prosecutor,
High Court, Madras.

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

H.C.P.No.2091 of 2018

SP(11/01/2019)



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