

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2018

CORAM:

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

H.C.P.No.956 of 2018

J.Naziya
W/o.D.Jeppiar

... Petitioner

-Vs-

- 1.The State represented by its
Secretary, Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600009.
 - 2.The Commissioner of Police,
Greater Chennai,
Office of the Commissioner of Police [Goondas Section]
Vepery, Chennai - 600007.
 - 3.The State represented by its
Inspector of Police,
Team 32, Chits, Kanthuvatti and Fake Passport Division,
Central Crime Branch,
Chennai - 600007.
- ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the records of second respondent passed in BCDFGISSSV No.279/2018 dated 30.04.2018 and quash the same and thereby direct the respondents to produce the husband of the petitioner, namely, Jeppiar S/o.Dasarathan, aged about 30 years [Detenu] now detained at Central Prison, Puzhal, Chennai, before this Court and set him at liberty forthwith.

For Petitioner : Mr.M.Ravikumar
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 wife of the detenu Jeppiar S/o.Dasarathan, who 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.279/BCDFGISSSV/2018 dated

2. The detenu came to adverse notice in Crime No.50 of 2018 on the file of Central Crime Branch for offences u/s.420, 468, 471 IPC r/w 12(1)(b) of Passport Act, 1967. The alleged ground case has been registered against the detenu in Crime No.51 of 2018 on the file of Central Crime Branch for offences under sections 363, 419, 420, 221, 120(B), 34 IPC and 12(1)(d) of Passport Act, 1967. 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 Nos.50 and 51 of 2018 on the file of Central Crime Branch and has filed a bail application in Crime No.51 of 2018 before learned Judicial Magistrate, Alandur and the same was dismissed and the bail application moved in Crime No.50 of 2018 before such Court is pending, he had informed that the relatives of the detenu were taking efforts to move another bail application in Crime No.51 of 2018 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 the ground case. 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, Jeppiar S/o.Dasarathan, made in No.279/BCDFGISSSV/2018 dated 30.04.2018, 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.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Secretary, Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600009.
- 2.The Commissioner of Police,
Greater Chennai,
Office of the Commissioner of Police [Goondas Section]
Vepery, Chennai - 600007.
- 3.The Inspector of Police,
Team 32, Chits, Kanthuvatti and Fake Passport Division,
Central Crime Branch,
Chennai - 600007.
- 4.The Public Prosecutor,
High Court, Madras.
- 5.The Superintendent of Central Prison,
Puzhal, Chennai.
- 6.The Joint Secretary
to Government Public (Law & Order)
Fort St. George,
Chennai-9

sm:5.10.2018

H.C.P.No.956 of 2018

सत्यमेव जयते

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