

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.10.2018

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

and

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

H.C.P.No.2151 of 2018

Divya

W/o.Gopi

... Petitioner/Wife of Detenue

-vs-

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

2.The District Collector and District Magistrate,
Thiruvannamalai District,
Thiruvannamalai.

... Respondents

Writ petition under Article 226 of the Constitution of India filed praying for issuance of a Writ of Habeas Corpus calling for the entire records culminating in passing of the order of detention passed by second respondent dated 16.03.2018 in D.O.No.11/2018-C2 against petitioner's husband by name Gopi aged 32 years S/o.Gunasekaran, who is confined at Central Prison, Vellore and quash the same as illegal and consequently, direct the respondents herein to produce detenu before this Court and set him at liberty.

For Petitioner : Mr.G.Kathiresan

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 detenu Gopi S/o.Gunasekaran, who has been branded as a 'Goonda' under the Tamil Nadu Act 14 of 1982 and detained under order of second respondent passed in D.O.No.11/2018-C2 dated 16.03.2018.

2. The detenu came to adverse notice in Crime No.1286 of 2017 on the file of Cheyyar Police Station for offences u/s.379 IPC @ 380, 120(b) IPC. The alleged ground case has been registered against the detenu in Crime No.140 of 2018 on the file of Cheyyar Police Station for offences under sections 341, 294(b), 506(ii), 392 and 397 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 both adverse and ground cases and bail applications moved in the ground case in adverse cases were dismissed, he had informed that the relatives of the detenu were taking efforts to move further bail 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. Therefore, the non-application of mind and erroneous subjective satisfaction arrived at by the detaining authority is apparent.

According, the impugned detention order passed by second respondent, detaining the detenu, namely, Gopi S/o.Gunasekaran, made in D.O.No.11/2018-C2 dated 16.03.2018, 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 IV)

//True Copy//

Sub Assistant Registrar

gm

To

- 1.The Secretary to Government,
Prohibition and Excise Department,
Fort St.George, Chennai.
 - 2.The District Collector and District Magistrate,
Thiruvannamalai District,
Thiruvannamalai.
 - 3.The Superintendent of Central Prison,
Vellore.
 - 4.The Joint Secretary to Government,
Public (L&O),
Fort St.George, Chennai.
 - 5.The Public Prosecutor,
High Court, Madras.
- +1cc to Mr.G.Kadhiresan, Advocate, S.R.No.68751

H.C.P.No.2151 of 2018

VGII (CO)
RRK (09/11/2018)



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