

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.06.2019

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH

and

The Hon'ble Mr. Justice M.NIRMAL KUMAR

H.C.P.No.148 of 2019

Sathish @ Kili .. Petitioner

Vs

1.The Commissioner of Police,
Greater Chennai,
Vepery, Chennai - 600 007

2. The Secretary to Government,
Home, Prohibition & Excise Department,
Government of Tamil Nadu,
Secretariat, Fort. St. George,
Chennai- 600 009 .. Respondents

Petition filed under Article 226 of the Constitution of India praying for a writ of habeas corpus, to call for the records of the first respondent herein in Memo No.950/BCDFGISSSV/2018 dated 17.10.2018 setting aside the order of detention passed and produce the petitioner namely Sathish @ kili, S/o Ramesh, aged about 23 years has now detained in Central Prison, Puzhal, at Chennai and set him at liberty.

For Petitioner .. Mr.r. Rajasekaran

For Respondents.. Mr.C.Iyyappa Raj,
Addl. Public Prosecutor

ORDER

(Judgment of the Court was delivered by M.M.SUNDRESH, J.)

The petitioner is the detenu and he has been detained by the second respondent by his order in Memo No.950/BCDFGISSSV/2018 dated 17.10.2018 holding him to be a "BOOTLEGGER", as contemplated under the provisions of Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum-grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982) branding him as a "GOONDA".

2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the State and we have also perused the records carefully.

3. Though, several grounds were raised in the petition, the learned counsel appearing for the petitioner would mainly focus on the ground that though there was no bail application pending in Crime Nos.375/2018, 395/2018, 506/2018 and 528/2018 the detaining authority has stated that the relatives of the detenu were taking steps to file bail application, in which case there was real possibility of the detenu coming out on bail. The learned counsel pointed out that to arrive at such a conclusion, there was no material placed before the detaining authority at all.

4. The learned Additional Public prosecutor would submit that the relatives of the detenu were taking steps to file bail application in connection with the case in Crime Nos.375/2018, 395/2018, 506/2018 and 528/2018.

5. We have considered the above submissions. Admittedly, as on the date of passing of the detention order, there was no application filed by the detenu seeking bail in Crime Nos.375/2018, 395/2018, 506/2018 and 528/2018 on the file of S-12, Chitlapakkam Police Station. Though it is alleged that his relatives were taking steps to file an application for bail, there were no materials available before the detaining authority to show that the relatives were taking steps to file application seeking bail. Full details as to who are those relatives, who were taking steps to file bail application also have not been mentioned. Thus, in our considered view, without making proper application of mind relating to these facts, the detaining authority has passed the detention order.

Therefore, we are inclined to set aside the same.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 17.10.2018, passed by the first respondent is set aside. The detenu is directed to be released forthwith unless his presence is required in connection with any other case.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

sr
To

- 1.The Commissioner of Police,
Greater Chennai,
Vepery, Chennai - 600 007
2. The Secretary to Government,
Home, Prohibition & Excise Department,
Government of Tamil Nadu,
Secretariat, Fort. St. George,
Chennai- 600 009
- 3.The Superintendent of Central Prison,
Puzhal, Chennai.
- 4.The Joint Secretary to Government,
Public (Law and order) Fort.St.George, Chennai 9.
- 5.The Public Prosecutor,
High Court, Madras.

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HCP No.148 of 2019

A.SK(16/07/2019)