

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.07.2019

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice M. NIRMAL KUMAR

H.C.P. No. 725 of 2019

Jothi

... Petitioner

-vs-

1.The Secretary to the Govt,
Home, Prohibition and Excise Department,
Secretariat,
Fort St.George,Chennai - 600 009.

2.The Commissioner of Police/Detaining Authority,
City Police Office,
Huzur Road, Coimbatore City,
Coimbatore - 18.

... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus calling for the entire records relating to the petitioner's son detention under Tamil Nadu Act 14 of 1982 vide detention order, dated 31.03.2019 on the file of the 2nd respondent herein made in proceedings Memo C.No.14/G/IS/2019, quash the same as illegal and consequently direct the respondents herein to produce the petitioner's son namely P.Senthilkumar @ Kuttai Senthil, S/o. Pandian, aged 39 years, before this Court and set the petitioner's son at liberty from detention, now the petitioner's son detained at Central Prison, Coimbatore.

For Petitioner : Mr.W.Camyles Gandhi

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

ORDER

[Order of the Court was made by M.M.SUNDRESH, J.]

The petitioner is the mother of the detenu, P.Senthilkumar @ Kuttai Senthil, S/o. Pandian, aged 39 years. The detenu has been detained by the second respondent by his order in Memo C.No.14/G/IS/2019, dated 31.03.2019, holding to be a "Goonda", as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.

2.We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents. We have also perused the records produced by the Detaining Authority.

3. The sponsoring authority has satisfied that the detenu has acted in a manner prejudicial to the maintenance of public order and as such he is a Goonda, as contemplated under Section 2(f) of the Tamil Nadu Act 14 of 1982 and hence, sponsored the detenu before the Detaining Authority for passing an order of detention against him. The Detaining Authority, on consideration of the materials placed before him, passed the order of detention against the detenu. Aggrieved of the same, the present Habeas Corpus Petition is filed.

4.Though, several grounds were raised in the petition, the learned counsel appearing for the petitioner would mainly focus on the ground that there is non-application of mind on the part of the detaining authority in passing the order of detention.

5. The learned counsel for the petitioner submitted that insofar as the adverse case is concerned, the offence registered against the detenu is one under Section 302 IPC and due to previous enmity, the occurrence took place. He further submitted that insofar as the ground case is concerned, the occurrence took place inside the TASMAL bar and it would not in any way be prejudicial to the maintenance of public order, and hence the order of detention is liable to be set aside.

6.On perusal of the materials available on record and after going through the grounds of detention, we find that the ground case relates to individual act as the occurrence took place inside the TASMAL bar and there may be violation of only law and order and not public order. Any disorderly behaviour of a person in the public or commission of a criminal offence is bound, to some extent, affect the peace prevailing in the

locality and it may also affect law and order, but the same need not affect maintenance of public order. Hence, the detention order is liable to be set aside.

7. In the result, the Habeas Corpus Petition is allowed and the order of detention Memo C.No.14/G/IS/2019, dated 31.03.2019 passed by the second respondent is set aside. The detenu, P.Senthilkumar @ Kuttai Senthil, S/o. Pandian, aged 39 years, is directed to be released forthwith unless her detention is required in connection with any other case.

Sd/-

Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

mmi/ssm

To:

1. The Secretary to Govt,
Home, Prohibition and Excise Department,
Secretariat,
Fort St. George, Chennai - 600 009.
2. The Commissioner of Police/Detaining Authority,
City Police Office,
Huzur Road, Coimbatore City,
Coimbatore - 18.
3. The Superintendent
Central Prison, Coimbatore.
4. The Joint Secretary to Government,
Public (Law and order) Fort. St. George, Chennai 9.
5. The Public Prosecutor,
High Court, Madras.

H.C.P. No.725 of 2019

A.SK (08/08/2019)