

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.07.2019

CORAM

THE HON'BLE MR. JUSTICE M.M.SUNDRESH
AND
THE HON'BLE MR. JUSTICE M. NIRMAL KUMAR

H.C.P. NO. 934 OF 2019

Balamani

... Petitioner

-vs-

1.The State of Tamil Nadu,
Rep. By Secretary to Government,
Prohibition and Excise Department,
Fort St.George, Chennai - 9

2.The Commissioner of Police,
Greater Chennai,
Office of the Commissioner of Police
(Goondas Section), Vepery,
Chennai - 7.

...Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus to call for the records relating to detention order dated 13.02.2019 passed by the second respondent in his proceedings No.BCDFGISSSV No.81/2019 and quash the same and direct the respondents herein to produce the petitioner's husband namely Paul Arulraj, son of Aasirvadham, aged about 36 years, residing at No.279/4, South Street, Bethel Nagar, Ukkiran Kottai, Voothamalai Post, Thenkasi Taluk, Tirunelveli District, who is presently undergoing detention in the Central Prison, Puzhal, as Goonda under Section 2 (f) of the 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) before this Court and set him at liberty forthwith.

For Petitioner : Mr.N.Anand

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

ORDER

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

The petitioner, who is the wife of the detenu viz., Paul Arulraj, son of Aasirvadham, aged about 36 years, challenges the order of detention dated 13.02.2019 passed by the second respondent under Section 2(f) of the Tamil Nadu Act 14 of 1982 branding the detenu as a Goonda.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.

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 ground case is concerned, the offence registered against the detenu is one under Section 302 IPC. Learned counsel further submitted that due to previous enmity, the occurrence took place 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 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 in BCDFGISSSV No.81/2019 dated 13.02.2019, passed by the second respondent is set aside. The detenu, namely, Paul Arul Raj, son of Asirvatham, aged 36 years,

is directed to be released forthwith unless his detention is required in connection with any other case.

mmi/ssm

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1.The Secretary to Government,
Prohibition and Excise Department,
Fort St.George, Chennai - 9.
- 2.The Commissioner of Police,
Greater Chennai,
Office of the Commissioner of Police
(Goondas Section), Vepery,
Chennai - 7.
- 3.The Superintendent,
Central Prison, Puzhal, Chennai.
- 4.The Joint Secretary to Government,
Public (Law & Order),
Fort St.George, Chennai -600 009.
5. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.N.Anand, Advocate, SR.No.59582

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Kak(27/08/2019)

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