

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.10.2019

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice RMT.TEEKAA RAMAN

H.C.P.No.1038 of 2019
and
Crl.M.P.No.11969 of 2019

Adhi Lakshmi

.. Petitioner

Vs

The State rep. by its

1.The Secretary to Government,
Home, Prohibition and Excise
Department,
Government of Tamil Nadu,
Fort St. George,
Chennai - 600 009.

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

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for a writ of habeas corpus, to call for the records pertaining to the order of detention dated 09.05.2019 passed by the second respondent in S.C.No.05/2019 and quash the same and produce the detenu Mohan @ Jim Mohan, aged about 39 years, S/o.Ganesan detained at Central Prison, Vellore, before this Court and set him at liberty.

For Petitioner .. Ms.S.Deepika

For Respondents .. Mr.R.Prathap Kumar
Addl. Public Prosecutor

ORDER

(Order of the Court was made by M.M.SUNDRESH, J.)

The petitioner is the wife of the detenu and she has come up with this habeas corpus petition, challenging the detention order passed by the second respondent, vide S.C.No.05/2019 dated 09.05.2019, branding the detenu as a "Goonda" under 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].

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

3. Though the order of detention is challenged on various grounds, the main submission of the learned counsel for the petitioner is that the detaining authority has expressed subjective satisfaction with regard to the detenu coming out on bail in the case in which he was on remand, based on the bail order passed by the High Court in a similar case in Crime No.468 of 2017 in CrI.O.P.No.27083 of 2017 dated 28.12.2017 whereas the copy of the bail order in the similar case in CrI.O.P.No.27083 of 2017 was not furnished to the detenu in the booklet and there is nothing to show that such bail order was placed before the detaining authority while arriving at a subjective satisfaction and hence the subjective satisfaction expressed is not based on cogent material and it is vitiated.

4. On a perusal of the grounds of detention, it is seen that the subjective satisfaction with regard to the detenu coming out on bail in the ground case is based on the bail order in the similar case in Crime No.468 of 2017 in CrI.O.P.No.27083 of 2017 dated 28.12.2017. The copy of the bail order in CrI.O.P.No.27083 of 2017 is not found in the booklet. There is nothing on record to show that the said bail order was placed before the detaining authority while clamping the order of detention. In such circumstances, the subjective satisfaction expressed is not based on cogent material and on this ground alone, the order of detention is vitiated and liable to be set aside.

5. In the result, the Habeas Corpus Petition is allowed and the order of detention in S.C.No.05/2019 dated 09.05.2019 passed by the second respondent is set aside. The detenu, namely, Mohan @ Jim Mohan, aged about 39 years, S/o.Ganesan is directed to be

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

6. In view of the above order, the impleading petition in CrI.M.P.No.11969 of 2019 stands closed. We also find that the allegation against the petitioner cannot be gone into in this proceedings as we are on the validity of the detention order. However, we make it clear that this order will not have any bearing on the cancellation of bail application filed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

mmi/ssm

To

1. The Secretary to Government,
Home, Prohibition and Excise
Department,
Government of Tamil Nadu,
Fort St. George,
Chennai - 600 009.
2. The District Collector and
District Magistrate,
Krishnagiri District, Krishnagiri.
3. The Superintendent,
Central Prison, Vellore.
4. The Public Prosecutor,
High Court, Madras.
5. The Joint Secretary to Govt.,
Public Law & Order
Fort St. George, Chennai-9.

+1cc to Ms.S.Deepika, Advocate SR.84223

H.C.P.No. 1038 of 2019

MG(CO)
CB(29/11/2019)