

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.08.2019

CORAM

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

H.C.P.NO.1286 OF 2019

S.Devi

... Petitioner

-vs-

1. The State of Tamil Nadu
Rep by its Secretary to Govt,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600 009

2. State Rep by
The Commissioner of Police,
Greater Chennai,
The Commissioner Office,
Vepery High Road,
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 in connection with the order of detention passed by the second respondent in Memo No.145/BCDFGISSSV/2019 dated 22.03.2019 against the petitioner's husband V.Saravanan, aged 35 years, son of Vadivelu, who is confined at Central Prison, Puzhal under Section 2(f) of the Tamil Nadu Act 14/82 vide detention order dated 22.03.2019 and set aside the same, direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.P.Palaninathan

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 wife of the detenu, V.Saravanan, son of Vadivelu, aged about 35 years. The detenu has been detained by the second respondent by his order in No.145/BCDFGISSSV/2019 dated 22.03.2019, 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.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, in para 4 of the grounds of detention, while expressing subjective satisfaction with regard to the real possibility of the detenu coming out on bail in the cases in which he was on remand, has observed that the detenu has not filed bail applications in respect of second, third and fourth adverse cases in Crime No.177 of 2019 on the file of N1 Royapuram Police Station, Crime Nos.80 and 81 of 2019 on the file of M6 Manali Police Station and the ground case in Crime No.82 of 2019 on the file of M6 Manali Police Station but the relatives of the detenu are taking steps to take him on bail in those cases. But the same is not supported by any material. Hence the subjective satisfaction expressed is vitiated.

4.The detaining authority, after referring to the remand of the detenu in the ground case as well as in second, third and fourth adverse cases, has chosen to observe that the detenu has not filed bail petitions in those cases but his relatives are taking steps to take him out on bail in those cases. But the same is not supported by any material. In the affidavit filed in support of the H.C.P., it is specifically averred that no application for bail was moved on behalf of the detenu in the cases in which he was on remand. In such circumstances, the observation of the detaining authority that the detenu has not moved bail petitions in the ground case as well as second, third and fourth adverse cases but his relatives are taking steps to take him out on bail is not supported by material. There is nothing to show that such material was placed before the detaining authority at the time of clamping the order of detention. Hence the subjective satisfaction expressed by the

detaining authority in this regard in para 4 of the grounds of detention is vitiated. 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 No.145/BCDFGISSSV/2019 dated 22.03.2019, passed by the second respondent is set aside. The detenu, V.Saravanan, son of Vadivelu, aged about 35 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

mmi/ssm

To

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

H.C.P.No.1286 of 2019

MR(CO)
CS/30/09/2019