

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.09.2019

Coram

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

H.C.P. No.1336 of 2019

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... Petitioner

-vs-

1.The District Collector and District Magistrate,  
Vellore District, Vellore.

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

... 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 the impugned order C3/D.O.No.60/2019 dated 20.06.2019 on the file of the first respondent herein and set aside the same as illegal and direct the respondent to produce the detenu namely Vignesh @ Vicky, son of Venkatesan, Hindu, aged about 26 years, now confined at Central Prison, Vellore, Vellore District, before this Court and set him at liberty.

For Petitioner : Mr.C.Vinodh Kumar

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 Vignesh @ Vicky, son of Venkatesan, Hindu, aged about 26 years. The detenu has been detained by the first respondent by his order in C3/D.O.No.60/2019 dated 20.06.2019, 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 perused the materials available on record.

3.The main argument of the learned counsel appearing for the petitioner is that the case relied on by the detaining authority is not similar in nature and the offences in the ground case are totally different. Therefore, the likelihood of the detenu coming out on bail is not there and the subjective satisfaction arrived by the detaining authority is not proper.

4.For appreciating the contentions raised by the learned counsel for the petitioner, the relevant averments in para 5 of the grounds of detention are extracted below:

"5.I am aware that Thiru.Vignesh @ Vicky has filed a bail application before the Court of Judicial Magistrate, Katpadi in ground case in Thiruvalam Police Station Crime No.187/2019 u/s 341, 294(b), 323, 392, 394, 506(ii) IPC in Crl.M.P.No.1435/2019 and the same was dismissed on 10.06.2019. As far as the ground case concerned, in a similar case registered at Vellore North Crime Police Station Crime No.200/2017 under Section 294(b), 394, 397, 506(i) IPC bail was granted to the accused Thiru. Nandhu @ Nandhakumar by the Court of the Principal District Judge, Vellore in Crl.M.P.No.2714/2017 on 07.07.2017. As bails are being granted by courts in such cases, there is most likely that he (Thiru.Vignesh @ Vicky) may coming out of bail, by filing another bail application before the higher court. If he enlarge himself on bail, he would indulge in further activities which will be prejudicial to the maintenance of public order and public peace. ...."

5.From a perusal of the detention order, it is seen that the detaining authority has taken into consideration in a similar case registered at Vellore North Crime Police Station Crime No.200/2017 under Sections 294(b), 394, 397, 506(i) IPC bail was granted to the accused Thiru. Nandhu @ Nandhakumar by the Court of the Principal District Judge, Vellore in Crl.M.P.No.2714/2017 on 07.07.2017 and therefore, there is a real possibility of the detenu coming out on bail and indulge in

such activities prejudicial to the maintenance of public order. The similar case relied on by the authority was registered for the offences under Sections 294(b), 394, 397, 506(i) IPC whereas the offences involved in the ground case are u/s 341, 294(b), 323, 392, 394, 506(ii) IPC. Therefore, there is non-application of mind on the part of the detaining authority in not considering the similar case for arriving at subjective satisfaction. Hence the impugned order of detention is liable to be set aside.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in C3/D.O.No.60/2019 dated 20.06.2019, passed by the first respondent is set aside. The detenu, namely, Vignesh @ Vicky, son of Venkatesan, Hindu, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

mmi/ssm

To

1.The District Collector and District Magistrate,  
Vellore District, Vellore.

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

3.The Joint Secretary to Government,  
Public (Law&Order), Fort  
Saint Goerge, Chennai-9.

4.The Superintendent of Prison,  
Central Prison,Vellore.

5.The Public Prosecutor,  
High Court, Madras.

H.C.P. No. 1336 of 2019

SPD(CO)  
CB(12/11/2019)