

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.09.2019

Coram

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

H.C.P. No.1392 of 2019

M.Lokeshwari

... Petitioner

-vs-

1. The Secretary to the Government of Tamil Nadu,  
Home, Prohibition and Excise Department,  
Secretariat, Chennai - 600 009.

2. The Commissioner of Police,  
Gretare Chennai Police,  
Vepery, Chennai.

... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus calling for the records in Memo No. 339/BCDFGISSSV/2019 on the file of the second respondent, quash the detention order dated 20.06.2019 and direct the respondents to produce of detenu Madhan, Son of Raghavan, detained at Central Prison, Puzhal, under the Tamil Nadu Act 14 of 1982 before this Court and set him at liberty.

For Petitioner : Mr.P.K.Ganesh

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 husband of the detenu Madhan, S/o. Raghavan, Hindu, aged about 42 years. The detenu has been detained by the second respondent by his order in 339/BCDFGISSSV/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 4 of the grounds of detention are extracted below:

"4.I am aware that Thiru. Madhan is in remand in S-6 Sankar Nagar Police Station Crime No.363/2019 and he has moved bail applications for S-6 Sankar Nagar Police Station Crime No.363/2019 in the Court of Principal District and Sessions Judge at Chengalpet in Crl MP No. 2715/2019 and the same is pending. In a similar case registered at C3 Manimangalam P.S.Cr.No.75/2016 u/s 341 and 302 IPC bail was granted by the Court of Principal Sessions Judge, Chengalpattu in Crl MP No. 782/2016. Hence, I infer that it is very likely of his coming out on bail in S6 Sankar Nagar Police Station in Crime No.363/2019 since in similarly placed cases bails are granted by courts after a lapse of time. If he comes out on bail, he will indulge in further activities which will be prejudicial to the maintenance of public order. ...."

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 C3 Manimangalam P.S.Cr.No.75/2016 u/s 341 and 302 IPC bail was granted by the Court of Principal Sessions Judge, Chengalpattu in Crl MP No. 782/2016 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 u/s 341 and 302 IPC whereas the offences involved in the ground case are u/s 341, 294(b), 307 and 302 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 No. 339/BCDFGISSSV/2019 dated 20.06.2019, passed by the second respondent is set aside. The detenu, namely, Madhan, S/o. Raghavan, Hindu, aged about 42 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-  
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

mmi/ssm

To

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

SPD(CO)  
SSM(05/11/2019)

सत्यमेव जयते

H.C.P. No. 1392 of 2019

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