

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.10.2019

Coram

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

H.C.P. No. 1554 of 2019

Valli

... Petitioner

-vs-

1.State of Tamil Nadu

Rep. by The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 9.

2.The Commissioner of Police,
Greater Chennai,

Office of Commissioner of Police,
Vepery, Chennai - 7.

... 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.387/BCDFGISSSV/2019 passed by the second respondent on 09.07.2019, on the file of the second respondent and quash the same as illegal and consequently direct the respondents to produce Ramesh @ PT Ramesh, son of Pasupathy, aged about 33 years, before this Court, who now detained in Central Prison, Puzhal - II, Chennai and set him at liberty.

For Petitioner : Mr.A.Elumalai

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 mother of the detenu Ramesh @ PT Ramesh, son of Pasupathy, aged about 33 years. The detenu has been detained by the second respondent by his order in No.387/BCDFGISSSV/2019 dated 09.07.2019, holding him 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. 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 Ramesh @ PT Ramesh is in remand in M5 Ennore Police Station Cr.No.309/2019 and lodged at Central Prison, Puzhal, Chennai. He has not moved any bail application for M5 Ennore Police Station Cr.No.309/2019. The sponsoring authority has stated that the relatives of Thiru Ramesh @ PT Ramesh are taking action to take him out on bail in M5 Ennore Police Station Cr.No.309/2019 by filing bail application before the appropriate Court. In a similar case registered u/s 341, 294 (b), 323, 336, 427, 307 & 506(ii) IPC in F2 Egmore Police Station Cr.No.145/2018 bail was granted by the Court of Principal Sessions, Chennai in CrI.M.P.No.6184/2018. Hence, I infer that there is real possibility of his coming out on bail in M5 Ennore Police Station Cr.No.309/2019 by filing bail application before the appropriate court,

since in similar cases bail is granted by the court 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 u/s 341, 294(b), 323, 336, 427, 307 & 506(ii) IPC in F2 Egmore Police Station Cr.No.145/2018 bail was granted by the Court of Principal Sessions, Chennai in CrI.M.P.No.6184/2018 and, therefore, there is a real possibility of the detenu coming out on bail in the ground case in Crime No 309/2019 case 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, 294(b), 323, 336, 427, 307 & 506(ii) IPC whereas the offences involved in the ground case are under Sections 294(b), 307, 506(ii) IPC r/w 25(1)(a) Arms Act, 1959. 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 Memo No.387/BCDFGISSSV/2019 dated 09.07.2019, passed by the second respondent is set aside. The detenu, namely, Ramesh @ PT Ramesh, son of Pasupathy, aged about 33 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Assistant Registrar(CS)

//True Copy// सत्यमेव जयते
Sub Assistant Registrar

mmi/ssm

To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 9.

2. The Commissioner of Police,
Greater Chennai,
Office of Commissioner of Police,
Vepery, Chennai - 7.

3.The Superintendent,
Central Prison,Puzhal,Chennai.

4.The Public Prosecutor,
High Court, Madras.

5.The Joint Secretary to Government,
Public (Law and order) Fort.St.George, Chennai 9.

H.C.P. No. 1554 of 2019

A.SK(15/11/2019)



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