

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.12.2019

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

H.C.P.No.2093 of 2019

Krishna Kumar
F/o.Rajesh

... Petitioner

Vs

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

2.The District Collector and District Magistrate,
The Office of the District Collector,
Kancheepuram District,
Kancheepuram.

3.The Superintendent of Police,
Kanchipuram District,
Kanchipuram.

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus calling for the records of the detention order No.17/BCDFGISSSV/2019 dated 17.03.2019 on the file of second respondent herein and quash the same and direct the respondents herein to produce the body of the detenu Rajesh S/o.Krishna Kumar, Male age 23 years, confined at Central Prison, Puzhal, Chennai, before this Court and set him at liberty.

For Petitioner : Mr.M.K.Yukanth

For Respondents: Mr.R.Prathap Kumar
Additional Public Prosecutor

O R D E R

[Order of this Court was made by R.SUBBIAH, J]

Petitioner is the father of the detenu viz., Rajesh S/o.Krishna Kumar, aged 23 years, who has been branded as a 'Goonda' under the Tamil Nadu Act 14 of 1982 and detained under order of second respondent passed in No.17/BCDFGISSSV/2019 dated 17.03.2019.

2. The detenu came to adverse notice in Crime No.5 of 2019 on the file of Kayar Police Station for an offence under Section 302 IPC. The alleged ground case has been registered against the detenu in Crime No.82 of 2019 on the file of Kelambakkam Police Station for offences u/s.294(b), 341, 323, 392, 397, 506(ii) and 307 IPC. Aggrieved by the order of detention, the present writ petition has been filed.

3. Heard learned counsel for petitioner and learned Additional Public Prosecutor appearing for respondents. Perused the materials on record.

4. Learned counsel for petitioner submits that the detaining authority has informed that the detenu has filed a bail petition in the ground case and there is a real possibility of the detenu coming out on bail since in a similar case bail was granted by learned District Sessions Judge II, Kancheepuram, in Cr.M.P.No.94 of 2014 in respect of Crime No.727 of 2013 on the file of Kanchi Taluk Police Station, for offences u/s.147, 148, 120(b) and 302 IPC. Learned counsel submits that in the case cited as similar, the offences are different from that of the offences in the ground case. The non-consideration of such aspect reflects non-application of mind.

5. We have heard learned Additional Public Prosecutor on the above submissions.

6. As rightly submitted by learned counsel for petitioner, the offences alleged in the similar case, relied on by the detaining authority in arriving at a subjective satisfaction, are different from that of the offences alleged in the ground case. Hence, we find that the order of detention suffers from non application of mind.

Accordingly, the Habeas Corpus Petition is allowed and the detention order passed by the second respondent against the detenu viz., Rajesh S/o.Krishna Kumar in No.17/BCDFGISSSV/2019 dated 17.03.2019, is quashed. The above named detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

gm

To

- 1.The Secretary,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai - 600 009.
- 2.The District Collector and District Magistrate,
The Office of the District Collector,
Kancheepuram District,
Kancheepuram.
- 3.The Superintendent of Police,
Kanchipuram District,
Kanchipuram.
- 4.The Superintendent of Police,
Central Prison, Puzhal,
Chennai.
- 5.The Joint Secretary,
Public (L & O)
Fort St.George,
Chennai - 600 009.
- 6.The Public Prosecutor,
High Court, Madras.

H.C.P.No.2093 of 2019

SSD(CO)
GMY (28/01/2020)

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