

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

H.C.P.No.2490/2018

Ramani

.. Petitioner

vs.

1.The State of Tamil Nadu rep.by
its Secretary to Government,
[Home], Prohibition and Excise Department
Fort St George, Chennai 600 009.

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

3.The Superintendent
Central Prison, Puzhal
Chennai 600 066.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus calling for the entire records of the 2nd respondent in his proceedings Memo No.783/BCDFGISSSV/2018 dated 04.09.2018 to quash the same and consequently direct the respondents to produce the detenu Thiru Ebinesan @ Appu, son of Arumugam, aged 24 years, now confined in Central Prison, ,Puzhal, set him at liberty forthwith.

For Petitioner .. Mr.K.Sudhakar

For Respondents.. Mr.C.Iyyappa Raj, APP

ORDER

(Order of the Court was made by M.SATHYANARAYANAN, J)

The mother of the detenu is the petitioner herein and challenging the legality of the impugned order of detention dated 04.09.2018 passed by the 2nd respondent, in and by which, her son, the detenu herein has been branded as a 'Goonda' under the provisions of the Tamil Nadu Prevention of dangerous

activities of Boot leggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum-grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14/1982), the present petition is filed.

2 As per the Grounds of Detention dated 04.09.2018 passed by the 2nd respondent herein, the detenu came to the adverse notice in the following cases:-

i) Adverse case:

Sl No.	Name of the Police station and Crime No.	Section of law
1	T13 Kundrathur PS Cr.No.333/2018	302 IPC
2	S11 Tambaram PS Cr.No.1078/2018	379 IPC
3	S11 Tambaram PS Cr.No.1089/2018	379 IPC

3 It is further alleged in the Grounds that the defacto complainant one Nagoor Meeran, is eking out his livelihood by doing business in fruits. He was waiting for a bus near Irumbuliyur Bus Stop, at GST Road, at about 5.15 hours on 14.08.2018 and at that juncture, two persons came in a motorcycle bearing Registration No.TN-20-CX-1284, wrongfully restrained the defacto complainant under the guise of enquiring about an address and one of them caught hold of the complainant while the other person took out a knife and pointed it on the stomach of the complainant and threatened him with dire consequences and asked him to part with the money and a sum of Rs.875/- was also snatched. The defacto complainant raised an alarm and when public gathered, they were also threatened with dire consequences and the accused fled away from the scene of crime, The complaint lodged by the complainant was registered by the Station House Officer, S11 Tambaram Police Station, in Cr.No.1144/2018 for the commission of the offences u/s.341, 294 [b], 336, 427, 397, 392 and 506[ii] IPC [ground case] and took up the case for investigation. Later on, he effected the arrest of the accused, viz., one Murugan and Ebinesan @ Appu [detenu herein] on 14.08.2018 at about 11.45 hours and the detenu came forward to give a voluntary confession statement as to his involvement in the 2nd and 3rd adverse cases as well as in the ground case. Arrest intimation was also given to the mother of the detenu through mobile phone as well as by Registered Post Acknowledgment Due. The detenu was produced before the Court of Judicial Magistrate, Tambaram, on 14.08.2018 and was ordered to

be remanded to judicial custody till 28.08.2018 and the remand period was further extended till 05.09.2018. The Detaining Authority on a perusal and consideration of the materials has arrived at the subjective satisfaction that the fact of involvement of the detenu in the adverse cases as well as in the ground case, would be prejudicial to the maintenance of public order and hence, branded him as 'Goonda' and detained him under the Tamil Nadu Act 14 of 1982 vide impugned order and challenging the legality of the same, the present habeas corpus petition is filed.

4 The learned counsel for the petitioner would submit that the representation dated 23.10.2018 submitted by the petitioner herein/mother of the detenu, has not been disposed of on time and the delay in disposal had caused serious prejudice to the detenu and therefore, prays for quashment of the impugned order of detention.

5 Per contra, Mr.C.Iyyappa Raj, learned Additional Public Prosecutor appearing for the State would submit that the Detaining Authority, after due and proper application of mind has rightly clamped the order of detention and prays for dismissal of this petition.

6 This Court has considered the rival submissions and also perused the materials placed before it.

7 A perusal of the working sheet as to the disposal of the representation would disclose that the representation dated 23.10.2018 submitted by the mother of the detenu/petitioner herein, has been dealt with by various authorities and the Deputy Secretary has dealt with the same on 02.11.2018 and however, the Hon'ble Minister for Electricity, Prohibition and Excise, has dealt with the same only on 30.11.2018 and between 02.11.2018 and 30.11.2018, there were 11 Government Holiday and excluding the same, still there was a delay of 17 days in considering the said representation. In the considered opinion of the Court, the said delay, in the facts and circumstances, appears to be considerable and no plausible explanation has been offered as to the delay in considering the said representation and on account of the said delay, the valuable right of the detenu guaranteed under Article 22 of the Constitution of India, has been violated and hence, on this sole ground, the detention order, impugned herein, is liable to be set aside.

8 In the result, the Habeas Corpus Petition is allowed and the detention order passed by the 2nd respondent dated 04.09.2018 is hereby set aside. The detenu, viz., Ebinesan @

Appu, son of Arumugam, aged 24 years, who is now confined in the Central Prison, Puzhal, Chennai, is directed to be released forthwith unless his presence [or] custody [or] detention is required in connection with any other case/proceedings.

Sd/-
Assistant Registrar (CS-IV)

//True copy//

Sub Assistant Registrar

AP

To

- 1.The Secretary to Government,
State of Tamil Nadu
[Home], Prohibition and Excise Department
Fort St George, Chennai 600 009.
- 2.The Commissioner of Police
Greater Chennai, Vepery,
Chennai.
- 3.The Superintendent
Central Prison, Puzhal
Chennai 600 066.
- 4.The Public Prosecutor,
Madras High Court, Madras.

SSD(CO)
GMY(01/04/2019)

H.C.P.No.2490/2018

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