

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2019

CORAM:

THE HONOURABLE MR.JUSTICE C.T.SELVAM
and
THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

H.C.P.No.2666 of 2018

Saraswathi
S/o.Magimaidoss

... Petitioner

-Vs-

1.The State of Tamil Nadu,
represented by its
Additional Chief Secretary to Government Home,
Prohibition and Excise Department,
Chennai - 600 009.

2.The Commissioner of Police,
Greater Chennai City,
Vepery, Chennai - 600 007. ... Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus calling upon the production of records relating to the detention order dated 30.10.2018 made in detention order Memo No.BCDFGISSSV/1005/2018 passed by the second respondent herein, quash the same and direct the respondents to produce the body or person of the petitioners grandson Mani S/o.Maran, aged about 24 years, branded as Goondas and now confined at Central Prison, Puzhal, Chennai, before this Court and set him at liberty forthwith.

For Petitioner : Mr.P.Sundarrajan

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

O R D E R

[Order of the Court was made by C.T.SELVAM, J]

Petitioner is the father of detenu Mani S/o.Maran, who has been branded as a "Goonda" under the Tamil Nadu Act 14 of 1982 and detained under order of the second respondent passed in No.1005/BCDFGISSSV/2018 DATED 30.10.2018.

2. The detenu came to adverse notice in the following case:-

Sl.No .	Police Station and Crime No.	Sections of Law
1.	T-3 Korattur Police Station, Crime No.624 of 2018	147, 148, 341, 294(b), 435, 302 r/w 120(b) IPC

The alleged ground case has been registered against the detenu in Crime No.995 of 2018 on the file of T-3 Korattur Police Station for offences u/s.341, 294(b), 427, 336, 392 r/w 397 and 506(ii) IPC. Aggrieved by the order of detention, the present writ petition has been filed.

3. Amidst several grounds raised, learned counsel for petitioner submits that the detaining authority while noticing that the detenu stands remanded to judicial custody in the ground case and has not filed any bail application, had informed that the relatives of the detenu were taking efforts to move application to take him out on bail and therefore, there was a real possibility of his coming out on bail and if he comes out on bail, he will indulge in further activities which will be prejudicial to the maintenance of public order. Though the detaining authority has informed of an effort by the relatives to move bail petition for the release of the detenu, there is no material to support such contention.

4. We have heard learned Additional Public Prosecutor on the above submissions and also perused the records.

5. We find that there absolutely is no material which would disclose the likelihood of the relatives of the detenu moving bail petition on his behalf. Therefore, the non-application of mind and erroneous subjective satisfaction arrived at by the detaining authority is apparent.

Accordingly, the impugned detention order passed by the second respondent, detaining the detenu, namely, Mani S/o.Maran, made in No.1005/BCDFGISSSV/2018 dated 30.10.2018, is quashed and the Habeas Corpus Petition is allowed. The above named detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

Sd/-
Deputy Registrar

//True copy//

Sub Assistant Registrar

gm

To

- 1.The Additional Chief Secretary to Government Home, Prohibition and Excise Department, Chennai - 600 009.
- 2.The Commissioner of Police, Greater Chennai City, Vepery, Chennai - 600 007.
- 3.The Public Prosecutor, High Court, Madras.
4. The Superintendent of Central Prison, Puzhal, Chennai-66

H.C.P.No.2666 of 2018

GMY (28/02/2019)

सत्यमेव जयते

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