

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.2792 of 2018

Murali Murugesan
S/o.Murugesan

... Petitioner

-Vs-

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

2.The Commissioner of Police,
Greater Chennai.

... Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus calling for the records relating to the detention order passed by second respondent pertaining to the order made in Memo No.1009/BCDFGISSSV/2018 dated 31.10.2018 under section 2(f) of Tamil Nadu Act 14 of 1982, as a Goonda and quash the same and direct the respondent to produce the detenu Sathya @ Sathyamoorthy S/o.Murali Murugesan, aged about 30 years, who is detained at Central Prison, Puzhal, Chennai, before this Court and set him at liberty.

For Petitioner : Mr.C.Mohan Raj

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 Sathya @ Sathyamoorthy, 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 BCDFGISSSV No.1009 of 2018 dated 31.10.2018.

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

Sl.No .	Police Station and Crime No.	Sections of Law
1.	R-7 K.K.Nagar Police Station, Crime No.372 of 2018	379 IPC
2.	R-7 K.K.Nagar Police Station, Crime No.632 of 2018	392 IPC
3.	R-7 K.K.Nagar Police Station, Crime No.657 of 2018	392 IPC

The alleged ground case has been registered against the detenu in Crime No.536 of 2018 on the file of R-10 MGR Nagar Police Station for offences under sections 341, 294(b), 392 r/w 397, 336, 427 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 both in the ground case and the adverse cases, had informed that the detenu has moved a bail application in the ground case and the same is pending and has not filed any bail application in the adverse cases. However, the detaining authority had informed that the relatives of the detenu were taking efforts to move application to take him out on bail in the adverse case 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 in respect of adverse cases. 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, Sathya @ Sathyamoorthy S/o.Murali Murugesan, made in BCDFGISSSV No.1009

of 2018 dated 31.10.2018, 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 Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600 009.
- 2.The Commissioner of Police,
Greater Chennai.
- 3.The Public Prosecutor,
High Court, Madras.
- 4.The Superintendent of Central Prison,
Puzhal, chennai.

H.C.P.No.2792 of 2018

nr 01/03/2019



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