

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.06.2019

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice M. NIRMAL KUMAR

H.C.P. No. 3012 of 2018

Anandkumar

... Petitioner

-vs-

- 1.State of Tamil Nadu,
Rep. by the Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretary, Chennai - 600 009.
- 2.The Commissioner of Police
Greater Chennai
Vepery, Chennai - 600 007 ... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the entire records relating to petitioner's brother detention under Tamil Nadu Act 14 of 1982 vide detention order dated 24.11.2018 on the file of the second respondent herein made in proceedings BCDFGISSSV No. 1074/2018 and quash the same as illegal and consequently direct the respondents to produce the said petitioner's brother namely Saravanan Son of Dhanasekar, aged 33 years before this Hon'ble Court and set the petitioner's brother at liberty from detention, now detained at Central Prison, Puzhal, Chennai - 600 066.

For Petitioner

: Mr.C.C.Chellappan

For Respondents

Mr.C.Iyyappa Raj
: Addl. Public
Prosecutor

ORDER

[Order of the Court was made by M.M.SUNDRESH, J.]

The petitioner, who is the brother of the detenu, challenges the impugned order of detention dated 24.11.2018 in order BCDFGISSSV No. 1074/2018, detaining him as "Goonda", as contemplated under Section 2(f) of the Tamil Nadu Act 14 of 1982.

2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.

3. The learned counsel appearing for the petitioner has submitted that there is non-application of mind on the part of the detaining authority. Insofar as the adverse cases are concerned, in three cases, the detenu has been enlarged on bail and in other cases, the bail applications have been dismissed. There is no mention about the relative of the detenu who is taking steps to file bail application. Even in the statement given by the mother of the detenu, it has been stated that in Crime No.1491 of 2018, no bail application has been filed and therefore there is no likelihood of the detenu coming out on bail.

4. The learned Additional Public Prosecutor appearing for the respondents submitted that insofar as ground case is concerned, in similar cases, bail has been granted by the jurisdiction Court. There is a real possibility of the detenu coming out on bail. Thus, this petition will have to be dismissed.

5. Thus, we find non-application of mind on the part of the detaining authority. The mother of the detenu has made a statement stating that in Crime No.1491 of 2018, no application has been filed seeking enlargement on bail. Thus, there is no likelihood of the bail being granted to the detenu. Further, in the similar cases relied upon, the offences are different than the one for which the bail applications have been dismissed.

6. In such view of the matter, we find non-application of mind on the part of the detaining authority and the impugned detention order is liable to be set aside.

7. In the result, the Habeas Corpus Petition is allowed and the order of detention dated 24.11.2018 in order BCDFGISSSV No. 1074/2018 passed by the second respondent is set aside. The detenu, namely, Saravanan Son of Dhanasekar, aged 33 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

mmi/ssm

To

- 1.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretary, Chennai - 600 009.
- 2.The Commissioner of Police
Greater Chennai
Vepery, Chennai - 600 007
- 3.The Superintendent,
Central Prison, Puzhal,
Chennai.
4. The Joint Secretary to Government
Fort St, George, Chennai-9
- 5.The Public Prosecutor,
High Court, Madras.

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KK(CO)
GMY(27/06/2019)