

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2020

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

H.C.P.No.2046 of 2019

Revathi

... Petitioner

Vs

1. The State of Tamil Nadu
rep.by its Secretary,
Prohibition and Excise Department,
Fort.St.George,
Chennai 600 009.
2. The Commissioner of Police,
Greater Chennai Police,
Chennai.
3. The Inspector of Police
S-5, Pallavaram Police Station,
Pallavaram, Chennai.

... 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 dated 29.08.2019 in detention order No.BCDFGISSSV No.550/2019 on the file of the second respondent herein and quash the same and direct the respondents herein to produce the body of the detenue Dhillip S/o.Sankar, Hindu aged about 24 years who is now confined in Central Prison Puzhal, Chennai before this Court and set him at liberty.

For Petitioner : M/s.R.Thamaraiselvan
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 wife of the detenu viz., Dhilip, S/o.Sankar, aged 24 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 BCDFGISSSV/550/2019 dated 29.08.2019.

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

Sl.No.	Police Station and Crime No.	Section of Law
1.	S-5 Pallavaram Police Station, Crime No.287/2019	147, 148, 294(b), 324, 506(ii) IPC @ 147, 148, 294(b), 506(ii), 307 IPC
2.	S-5, Pallavaram Police Station, Crime No.310/2019	384, 506(ii) IPC

The alleged ground case has been registered against the detenu in Crime No.405 of 2019 on the file of S-5, Pallavaram Police Station for offences u/s.341, 294(b), 392, 397, 336, 427 and 506 (ii) 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 despite the admitted position that the detenu has not filed any bail application in the ground case, the detaining authority has informed a real possibility of his coming out on bail by filing a bail application since in a similar case bail was granted by learned Principal District and Sessions Judge, Ariyalur, in CrI.M.P.No.996 of 2019 in respect of Crime No.18 of 2019 on the file of R1 Mambalam Police Station, for offences u/s.147, 148, 341, 294(b), 307, 323, 506(ii) 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.

7. Accordingly, the Habeas Corpus Petition is allowed and the detention order passed by the second respondent against the detenu viz., Dhilip S/o.Sankar, in No.550/BCDFGISSSV/2019 dated 29.08.2019, 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

dpq

To

1. The Secretary to the State of Tamilnadu,
Prohibition and Excise Department,
Fort.St.George,
Chennai 600 009.
2. The Commissioner of Police,
Greater Chennai Police,
Chennai.
3. The Inspector of Police
S-5, Pallavaram Police Station,
Pallavaram, Chennai.
- 4.The Public Prosecutor,
High Court, Madras.
- 5.The Joint Secretary to the Government,
Public (Law and Order),
Fort St.George, Chennai-09.
- 6.The Superintendent,
Central Prison, Chennai.

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NRL (CO)
CSR:10.03.2020