

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2020

CORAM

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

H.C.P.No.2075 of 2019

A.Durgadevi
D/o.A.Anandan

... Petitioner

Vs

1.The State represented by its
Secretary, Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600009.

2.The Commissioner of Police,
Greater Chennai,
Chennai City, Veppery,
Chennai - 600007.

3.The State represented by its
Inspector of Police,
M-4 Redhills Police Station,
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 second respondent in BCDFGISSSV No.554/2019 dated 29.08.2019 and quash the same and thereby direct the respondents to produce the friend of the petitioner, viz., Gajendran @ Gaja S/o.Nataraj, Male, aged about 28 years, now detained at Central Prison, Puzhal, Chennai, before this Court and set him at liberty forthwith.

For Petitioner : Mr.G.Arun

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 friend of the detenu viz. Gajendran @ Gaja S/o.Nataraj, aged 28 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 No.554/2019 dated 29.08.2019.

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

Sl.No	Police Station/Crime No.	Section of Law
1.	E5 Sholavaram Police Station, Crime No.625/2018	147, 148, 341, 302, 506(ii) r/w 149 IPC
2.	E5 Sholavaram Police Station, Crime No.647/2018	397 and 307 IPC

The alleged ground case has been registered against the detenu in Crime No.437 of 2019 on the file of M4 Red Hills Police Station for offences u/s.341, 294(b), 323, 336, 427, 392 r/w 397 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 the detaining authority has informed a real possibility of the detenu coming out on bail since in a similar case bail was granted by learned Principal District and Sessions Judge, Tiruvallur, in Cr.M.P.No.3928 of 2019 in respect of Crime No.417 of 2019 on the file of M4 Red Hills Police Station for offences u/s.294(b), 336, 427, 397 and 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.

Accordingly, the Habeas Corpus Petition is allowed and the detention order passed by the second respondent against the detenu viz., Gajendran @ Gaja S/o. Nataraj, in BCDFGISSSV No.554/2019 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 (CS-III)

// True Copy //

Sub Assistant Registrar

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To

1. The Secretary, Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 600009.
2. The Commissioner of Police,
Greater Chennai,
Chennai City, Veppery,
Chennai - 600007.
3. The Inspector of Police,
M-4 Redhills Police Station,
Chennai.
4. The Superintendent of Central Prison,
Puzhal, Chennai.
5. The Joint Secretary to Government,
Public (Law and Order), सत्यमेव जयते
Fort St. George, Chennai-09.
6. The Public Prosecutor,
High Court, Madras.

H.C.P.No.2075 of 2019

VD(CO)
CSR: 18.02.2020