

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.01.2020

CORAM

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

H.C.P.No.2135 of 2019

U.Periyasamy
S/o.Udhayakumar

... Petitioner

Vs

1.The Secretary to Government,
Home, Prohibition & Excise (XVI) Department,
Secretariat, Chennai - 600009.

2.The Commissioner of Police,
Office of the Salem City Commissioner,
Salem City.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus calling for the entire records connected with the detention order in C.M.P.No.36/Goonda/Salem City/2019 dated 21.09.2019 on the file of second respondent and quash the same and direct the respondents to produce the body and person of the petitioner's brother, namely, U.Boopathy S/o.Udhayakumar, aged 33 years, now confined at Central Prison, Salem, before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Sankarasubbu

For Respondents: Mr.R.Prathap Kumar

Additional Public Prosecutor

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O R D E R

[Order of this Court was made by R.SUBBIAH, J]

Petitioner is the brother of the detenu viz., U.Boopathy S/o.Udhayakumar, aged 33 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 C.M.P.No.36/Goonda/Salem City/2019 dated 21.09.2019.

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

Sl. No.	Name of the Police Station and Crime No.	Sections of law
1.	Salem City Central Crime Branch, Crime No.9/2018	420 IPC
2.	Salem City Central Crime Branch, Crime No.16/2018	420 and 506(i) IPC
3.	Azhagapuram Police Station, Crime No.121/2018	353, 465 and 468 IPC

The alleged ground case has been registered against the detenu in Crime No.149 of 2019 on the file of Azhagapuram Police Station for offences u/s.294(b), 307 and 506(ii) IPC and section 4 of Tamil Nadu Prohibition of Women Harassment Act, 2002. 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. Though several grounds have been raised in the Habeas Corpus Petition, learned counsel for petitioner mainly focussed his argument on the ground that the arrest of the detenu has been intimated to his blood relative through SMS. However, to establish the same, no proof has been produced, which would vitiate the detention.

5. We have heard learned Additional Public Prosecutor on the above submissions.

6. In the light of the fact that proper procedure has not been followed in intimating the arrest of the detenu to his blood relative, we have no hesitation in quashing the order of detention.

Accordingly, the Habeas Corpus Petition is allowed and the detention order passed by the second respondent against the detenu viz., U.Boopathy S/o.Udhayakumar, aged 33 years, in C.M.P.No.36/Goonda/Salem City/2019 dated 21.09.2019, 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)

//True Copy//

Sub Assistant Registrar

To

- 1.The Secretary to Government,
Home, Prohibition & Excise (XVI) Department,
Secretariat, Chennai - 600009.
- 2.The Commissioner of Police,
Office of the Salem City Commissioner,
Salem City.
- 3.The Superintendent,
Central Prison,
Salem.
- 4.The Joint Secretary to Government,
Public (Law and order) Fort.St.George, Chennai 9.
- 5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.2135 of 2019

A.SK(28/02/2020)



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