

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2020

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

H.C.P.No.2128 of 2019

Ramesh
S/o.Kanniyappan

... Petitioner

Vs

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600009.

2.The Commissioner of Police,
Greater Chennai,
Office of the Commissioner of Police
(Goondas Section),
Vepery, Chennai - 600007.

... 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 of second respondent in No.578/BCDFGISSSV/2019 dated 10.09.2019 and quash the same and direct the respondents to produce the body and person of petitioner's son, namely, Karuppa @ Manikandan, S/o.Ramesh, aged about 30 years, detained at Central Prison, Puzhal, Chennai, before this Court and set him at liberty.

For Petitioner : Mr.B.M.Santharam

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 father of the detenu viz. Karuppa @ Manikandan, aged 30 years, S/o.Ramesh, who has been branded as a 'Goonda' under the Tamil Nadu Act 14 of 1982 and detained under order of second respondent passed in No.578/BCDFGISSSV/2019

dated 10.09.2019.

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

Sl.No	Police Station/Crime No.	Section of Law
1.	P-1 Pulianthope Police Station, Crime No.568/2018	341, 294(b), 324 and 506(ii) IPC
2.	P-1 Pulianthope Police Station, Crime No.309/2019	341, 294(b), 392, 397 and 506(ii) IPC

The alleged ground case has been registered against the detenu in Crime No.544 of 2019 on the file of P-1 Pulianthope Police Station for offences u/s.147, 148, 341, 294(b), 392, 397, 336 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 no bail application has been filed by the detenu 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 Sessions Judge, Chennai, in CrI.M.P.No.12566 of 2019 in respect of Crime No.392 of 2019 on the file of P-1 Pulianthope Police Station for offences u/s.147, 148, 341, 294 (b), 323, 336, 392, 397 and 506(ii) IPC. Learned counsel submits that in the case cited as similar, the offence u/s.323 IPC has also been alleged, which is not present in the ground as well as adverse cases. 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, in the similar case, relied on by the detaining authority in arriving at a subjective satisfaction, offence u/s.323 IPC has been alleged which is not so in the ground as well as in the adverse cases. 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., Karuppa @ Manikandan, aged 30 years, S/o.Ramesh, in No.578/BCDFGISSSV/2019 dated 10.09.2019, 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 V)

//True Copy//

Sub Assistant Registrar

gm

To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600009.
- 2.The Commissioner of Police,
Greater Chennai,
Office of the Commissioner of Police
(Goondas Section),
Vepery, Chennai - 600007.
- 3.The Superintendent of Central Prison,
Puzhal, Chennai.
- 4.The Public Prosecutor,
High Court, Madras.
5. The Joint Secretary to Government,
Public(Law & Order), Fort St.George, Chennai-9.

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