

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2020

CORAM

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

H.C.P.No.2151 of 2019

M.Swetha ... Petitioner

Vs

1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-600 009.

2.Commissioner of Police,
Salem City. ... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus to call for the records in connection with the order of detention passed by the second respondent dated 19.09.2019 in C.M.P. No.35/Goonda/Salem City/2019 against the petitioner's husband Manikandan, Male aged 24 years S/o.Sakthivel, who is confined at Central Prison, Salem and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.D.Balaji

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. Manikandan, S/o.Sakthivel, 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 C.M.P. No.35/Goonda/Salem City/2019 dated 19.09.2019.

2. The alleged ground case has been registered against the detenu in Crime No.448 of 2019 on the file of Annadanapatty Police Station for offences u/s. 341, 392, 397 & 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 in the case cited as similar, the offence alleged was under Sections 392 r/w 397 & 506(ii) IPC., whereas the ground case has been registered against the detenu under Sections 341, 392, 397 & 506(ii) IPC. 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 similar case referred to and relied upon by the Detaining Authority to infer that the detenu would be granted bail in the ground case, is not a similar 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., Manikandan, S/o.Sakthivel in C.M.P. No.35/Goonda/Salem City/2019 dated 19.09.2019, is set aside. The above named detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other cases.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

vga

To

1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-600 009.

2.Commissioner of Police,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.2151 of 2019

A.SK(20/03/2020)