

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2020

CORAM

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

H.C.P.No.2177 of 2019

Thangaraj ..Petitioner/Cousin Brother of the Detenue
Vs

1.Government of Tamilnadu,
rep. by its Secretary,
Home, Prohibition and Excise (XVI) Department,
Fort St. George,
Chennai 600 009.

2.The District Magistrate and
District Collector,
Tiruppur District, Tiruppur. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus calling for the records in Cr.M.P. No.10/Goonda/2019 dated 17.09.2019 on the file of the 2nd respondent herein and set aside the same and direct the respondents herein to produce the body of the petitioner's cousin brother Senthil alias Ottakadhu Senthil alias Chinnasamy, aged 45 years, son of Arumuga Gounder, before this Court now confined in Central Prison, Coimbatore and set him at liberty.

For Petitioner : Mr.R.Subhadra Devi
For Respondents : Mr.R.Prathap Kumar
Additional Public Prosecutor

ORDER

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

Petitioner is the cousin brother of the detenu viz. Senthil alias Ottakadhu Senthil alias Chinnasamy, aged 45 years, S/o. Arumuga Gounder who has been branded as a 'Goonda' under the Tamil Nadu Act 14 of 1982 and detained under order of second respondent passed in Cr.M.P. No.10/Goonda/2019 dated 17.09.2019.

2. The alleged ground case has been registered against the detenu in Crime No.462 of 2019 on the file of Vellakovil Police Station for offences u/s. 392 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 when the bail petition in Crl.M.P. No.3321 of 2019 filed by the detenu in respect of the ground case in Crime No.462 of 2019 was dismissed by the learned Judicial Magistrate, Kangayam vide order dated 16.09.2019, the detaining authority has stated that the detenu has moved a bail petition in the above said case and the same is pending before the Judicial Magistrate, Kangayam. Learned counsel informs that the same adversely has affected his right of making an effective representation.

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

6. As rightly submitted by learned counsel for petitioner, since the bail petition in Crl.M.P. No.3321 of 2019 filed by the detenu was dismissed vide order dated 16.09.2019 by the Judicial Magistrate, Kangayam, which was annexed at page No.182 of the booklet furnished to us, the Detaining Authority has made a mention that the bail petition in the above said ground case is pending. This would vitiate the order of detention. 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., Senthil alias Ottakadhu Senthil alias Chinnasamy, S/o. Arumuga Gounder in Cr.M.P. No.10/Goonda/2019 dated 17.09.2019, 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 case.

Sd/-

Assistant Registrar(C.S.III)

/True Copy/

Sub Assistant Registrar

To

1.The Secretary,
Government of Tamilnadu,
Home, Prohibition and Excise (XVI) Department,
Fort St. George,
Chennai 600 009.

2.The District Magistrate and
District Collector,
Tiruppur District, Tiruppur.

3.The Superintendent,
Central Prison, Coimbatore.

4.The Joint Secretary to Government,
Public (Law & Order) Department,
Fort St.George, Chennai.

5.The Public Prosecutor,
High Court, Madras.

AKM/09.03.2020 /3P-6C/

H.C.P.No.2177 of 2019



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