

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2020

CORAM

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

H.C.P.No.2158 of 2019

Settu

... Petitioner

Vs

1. The Government of Tamil Nadu
Rep.by its Secretary to Government
Prohibition and Excise Department,
Secretariat,
Chennai 600 009.

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

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus calling for the records relating to the proceedings of the second respondent in BCDFGISSSV No.57/2019 dated 11.09.2019 against the petitioner's son Prabhudeva, S/o.Settu, aged about 22 years and quash the same and consequently direct the respondents herein to produce the detenu who is detained under the Tamil Nadu Act 14 of 1982 currently confined at Central Prison, Puzhal before this Court and set him at liberty.

For Petitioner : M/s.P.Anbazhagan

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., Prabhudeva, S/o.Settu, aged 22 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.57/2019 dated 11.09.2019.

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

Sl.No.	Police Station & Crime No.	Section of Law
1.	Palur Police Station Cr.No.108 of 2019	341, 294 (b) 323 IPC

The alleged ground case has been registered against the detenu on in Crime No.147 of 2019 on the file of Palur Police Station for offences u/s.302 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 the detenu has not filed any bail application 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 District and Sessions Court - II, Kancheepuram in C.M.P.No.94 of 2014 in respect of Crime No.727 of 2013 on the file of Kanchi Taluk Police Station, for offences u/s.147, 148, 120-B, 302 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.

7. Accordingly, the Habeas Corpus Petition is allowed and the detention order passed by the second respondent against the detenu viz., Prabhudeva, S/o.Settu, in BCDFGISSSV No.57/2019 dated 11.09.2019, 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.

-s/d-

Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

dpq

To

1. The Secretary to the Government
Prohibition & Excise Department,
Secretariat, Chennai 600 009.
2. The District Collector and District Magistrate,
Kancheepuram District,
Kancheepuram.
3. The Public Prosecutor,
High Court, Madras.

H.C.P.No.2158 of 2019

BP (CO)
SP (28/02/2020)



WEB COPY