

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2020

CORAM

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

H.C.P.No.2261 of 2019

Jeeva
W/o.Vijayakumar ... Petitioner/wife of detenu

Vs

- 1.The State of Tamil Nadu,
represented by its
Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Chennai - 600009.
- 2.The Commissioner of Police,
Greater Chennai City,
Vepery, Chennai - 600007. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus calling upon the production of the records relating to the detention order dated 25.09.2019 made in detention order Memo No.622/BCDFGISSSV/2019 passed by second respondent herein, quash the same and direct the respondents to produce the body or person of the petitioner's husband/detenu viz., Vijayakumar S/o. Kalidoss, aged about 26 years, branded as Goondas and now confined at Central Prison, Puzhal Chennai, before this Hon'ble Court and set him at liberty forthwith.

For Petitioner : Mr.P.Sundara Rajan

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. Vijayakumar S/o.Kalidoss, aged 26, who has been branded as a 'Goonda' under the Tamil Nadu Act 14 of 1982 and detained under order of second respondent passed in Memo No.622/BCDFGISSSV/2019 dated 25.09.2019.

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

Sl. No.	Police Station and Crime No.	Section of Law
1.	T-4 Maduravoyal Police Station, Crime No.601/2019	392 IPC
2.	T-4 Maduravoyal Police Station, Crime No.609/2019	380 IPC

The alleged ground case has been registered against the detenu in Crime No.625 of 2019 on the file of T-4 Maduravoyal Police Station for offences u/s.341, 294(b), 336, 427, 397 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 the detaining authority has informed a real possibility of the detenu coming out on bail since in a similar case bail was granted by learned Principal District and Sessions Judge, Tiruvallur, in CrI.M.P.No.3177 of 2018 in respect of Crime No.369 of 2018 on the file of M-4 Red Hills Police Station for offences u/s.341, 294(b), 336, 427, 392, 397 and 506(ii) IPC. Learned counsel submits that in the case cited as similar, offence u/s.392 IPC was alleged, whereas in the ground case such offence has not been alleged. The non-consideration of such aspect reflects non-application of mind.

5. We 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.392 IPC was alleged, whereas in the ground case such offence has not been alleged. 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., Vijayakumar S/o.Kalidoss, aged 26, in Memo No.622/BCDFGISSSV/2019 dated 25.09.2019, 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 (CS-V)

//True copy//

Sub Assistant Registrar

gm

To

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Chennai - 600009.
- 2.The Commissioner of Police,
Greater Chennai City,
Vepery, Chennai - 600007.
- 3.The Superintendent,
Central Prison,
Puzhal, Chennai.
4. The Joint Secretary to Government,
Public (Law and Order)
Fort Sant George, Chennai.
- 5.The Public Prosecutor,
High Court, Madras.

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SR(CO)
GMY(18/03/2020)