

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.2343 of 2019

P.Selvi ..Petitioner/Mother of the Detenue

Vs.

1.The Commissioner of Police,
Greater Chennai,
Vepery, Chennai.

2.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Government of Tamil Nadu,
Chennai-600 009.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus calling for the records of the first respondent in BCDFGISSSV No.540 of 2019 dated 29.08.2019 and set aside the same and direct the first respondent to produce the detenu Thiyagarajan son of Palani, aged 26 years, now confined in Central Prison, Puzhal, Chennai before this Court and set him at liberty.

For Petitioner : Mr.C.D.Johnson

For Respondents : Mr.R.Prathap Kumar
Additional Public Prosecutor

ORDER

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

Petitioner is the mother of the detenu viz. Thiyagarajan, S/o.Palani, aged 26 years, who has been branded as a 'Goonda' under the Tamil Nadu Act 14 of 1982 and detained under order of first respondent passed in Memo No.540/BCDFGISSSV/2019 dated 29.08.2019.

2. The alleged ground case has been registered against the detenu in Crime No.577 of 2019 on the file of Thiruvannamiyur Police Station for offences u/s. 341, 294(b), 397, 336, 427 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 in the case cited as similar, the offence alleged was under Sections 457 and 380 IPC, whereas the ground case has been registered against the detenu under Sections 341, 294(b), 397, 336, 427 and 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 first respondent against the detenu viz., Thiagarajan, S/o. Palani in Memo No.540/BCDFGISSSV/2019 dated 29.08.2019, 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.VIII)

/True Copy/

Sub Assistant Registrar

To

1. The Commissioner of Police, Greater Chennai, Vepery, Chennai.
2. The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Government of Tamil Nadu, Chennai-600 009.
3. The Superintendent, Central Prison, Puzhal, Chennai-66.
4. The Joint Secretary to Government, Public (Law & Order)
Department, Fort St. George, Chennai.
5. The Public Prosecutor, High Court, Madras.

Akm/04.03.2020 /2p-6c/

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