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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2020

CORAM

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

H.C.P.No.2417 of 2019

Amina
W/o.Sheik Ali

... Petitioner

Vs

1.The Secretary to the Government
of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600009.

2.The Commissioner of Police,
Greater Chennai,
Vepery, Chennai - 600007.

... 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 Memo No.668/BCDFGISSSV/2019 on the file of second respondent, quash the detention order dated 13.10.2019 and direct the respondent to produce the detainee viz., Sabana W/o.Suresh, detained at Special Prison for Women, Puzhal, Chennai, under the Tamil Nadu Act 14 of 1982 before this Court and set her at liberty.

For Petitioner : Mr.P.K.Ganesh

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 mother of the detainee viz. Sabana W/o.Suresh, aged 36, 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.668/BCDFGISSSV/2019 dated 13.10.2019.

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

Sl. No.	Police Station and Crime No.	Section of Law
1.	S-4 Nandambakkam Police Station, Crime No.564/2017	380 IPC



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S1. No.	Police Station and Crime No.	Section of Law
2.	S-4 Nandambakkam Police Station, Crime No.565/2017	380 IPC
3.	S-7 Madipakkam Police Station, Crime No.158/2019	379 IPC
4.	S-10 Pallikaranai Police Station, Crime No.540/2019	380 IPC
5.	S-12 Chitlapakkam Police Station, Crime No.587/2019	380 IPC

The alleged ground case has been registered against the detinue in Crime No.597 of 2019 on the file of S-12 Chitlapakkam Police Station for offences u/s.341, 294(b), 392, 336 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 though the bail applications filed by the detinue are pending, the detaining authority has informed a real possibility of the detinue coming out on bail since in similar cases bail was granted by other Courts. Learned counsel submits that in the cases cited as similar, offence u/s.336 IPC is missing. 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, in the similar cases, relied on by the detaining authority in arriving at a subjective satisfaction, offence u/s.336 IPC alleged in the ground case is missing. 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 detinue viz., Sabana W/o.Suresh, aged 36, in Memo No.668/BCDFGISSSV/2019 dated 13.10.2019, is set aside. The above named detinue is ordered to be set at liberty forthwith, unless her custody is required in connection with any other case.

Sd/-

Assistant Registrar

//True copy//

Sub Assistant Registrar



To

1.The Secretary to the Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600009.

2.The Commissioner of Police,
Greater Chennai,
Vepery, Chennai - 600007.

3.The Superintendent,
Special Prison for Women,
Puzhal, Chennai.

4.The Public Prosecutor,
High Court, Madras.

H.C.P.No.2417 of 2019

RGN(CO)
GMV(11/06/2020)