IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2020

CORAM

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

H.C.P.No.2420 of 2019

Jarina
W/o.Farith ... Petitioner

Vs

1. State of Tamil Nadu
   represented by
   Secretary to Government,
   Home, Prohibition and Excise Department,
   Fort St.George, Chennai - 600009.

2. The District Collector and District Magistrate,
   Vellore District, Vellore - 9.

... 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 detention order passed by second respondent pertaining to the order made in C3/D.O.No.111/2019 dated 14.10.2019 in detaining the detenu under 2(b) of Tamil Nadu Act 14 of 1982, as a Goonda and quash the same and direct the respondents to produce the detenu Yashin S/o.Farith, aged about 29 years, who is detained at Central Prison, Vellore, before this Court and set him at liberty.

For Petitioner : Mr.G.Nirmal Krishnan

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 detenu viz. Yashin S/o.Farith, aged 29, who has been branded as a 'Goonda' under the Tamil Nadu Act 14 of 1982 and detained under order of second respondent passed in C3/D.O.No.111/2019 dated 14.10.2019.

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

Sl. No.	Name of the Police Station and Crime No.	Section of Law
1.	Ariyoor Police Station, Cr.No.278/2019	379 IPC
2.	Rathinagiri Police Station, Cr.No.333/2019	341, 294(b), 323 and 397 IPC

The alleged ground case has been registered against the detenu in Crime No.256 of 2019 on the file of Kalavai Police Station for offences u/s.294(b) and 397 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 informing that the detenu has not filed any bail application in the ground case, the detaining authority has informed a real possibility of the detenu coming out on bail by filing a bail application since in a similar case bail was granted by learned Principal District Judge, Vellore, in Crl.M.P.No.2714 of 2017 in respect of Crime No.200 of 2017 on the file of Vellore North Crime Police Station for offences u/s.294(b), 394, 397 and 506(i) IPC. Learned counsel submits that in the case cited as similar, offences u/s.394 and 506(i) IPC were also alleged, but it is not so 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.

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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, offences u/s.394 and 506(i) IPC were also alleged whereas in the ground case such offences are not alleged. Hence, we find that the order of detention suffers from non-application of mind.

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Accordingly, the Habeas Corpus Petition is allowed and the detention order passed by the second respondent against the detenu viz., Yashin S/o.Farith, aged 29, in C3/D.O.No.111/2019 dated 14.10.2019, 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

//True Copy//

Sub Assistant Registrar

gm

To

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600009.

2.The District Collector and District Magistrate,
Vellore District, Vellore - 9.

3.The Superintendent,
Central Prison,
Vellore.

4.The Public Prosecutor,
High Court, Madras.

5.The Joint Secretary to Government
Public(law and order)
Fort. St. George
Chennai 9.

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SS(CO)
SMN(29/05/2020)
SP(16/07/2020)

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