

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2020

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

H.C.P.No.2397 of 2019

Nandhini

W/o.Sathya @ Loduku Sathya

...

Petitioner/Wife of detenu

versus

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai-600 009.

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

...Respondents

Prayer:Habeas Corpus Petition filed under Article 226 of the Constitution of India, seeking to issue a Writ of Habeas Corpus, calling for the records in connection with the order of Detention passed by the second respondent in Memo No.601/BCDFGISSSV/2019 dated 16.09.2019 against the petitioner's husband, Sathya @ Loduku Sathya, Male, Son of Varadharajan, aged about 23 years, who is confined at Central Prison, Puzhal, Chennai and set aside the same and direct the respondents to produce the detenu, before this Court and set him at liberty.

For Petitioner : Mr.M.Illiyas

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

O R D E R

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

The petitioner herein is the wife of the detenu, namely, Sathya @ Loduku Sathya, Son of Varadharajan, aged about 23 years, has filed this petition, challenging the order of detention passed by the second respondent in Memo No.601/BCDFGISSSV/2019 dated 16.09.2019, branding him as a "Bootlegger" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic

Offenders, Sand Offenders, Sexual Offenders, Slum Grabbers and Video Pirates Act, 1982 [Tamil Nadu Act 14 of 1982].

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

Sl. No.	Police Station and Crime No.	Section of law
1.	H6 R.K.Nagar Police Station, Crime No.288/2015	147, 148, 341, 294(b), 323, 307 & 506(ii) IPC r/w 120B IPC @ 147, 148, 341, 294(b), 323, 324, 307 r/w 149 IPC
2.	H3 Tondiarpet Police Station, Crime No.744/2016	392 IPC @ 384 IPC
3.	H1 Washermenpet Police Station, Crime No.928/2017	380 r/w 34 IPC
4.	N1 Royapuram Police Station, Crime No.546/2019	397 IPC

The alleged ground case has been registered against the detenu in Crime No.548 of 2019 on the file of N1 Royapuram Police Station for offences under Sections 341, 294(b), 323, 392, 336, 427 and 506(ii) IPC. Aggrieved by the order of detention, the present Habeas Corpus Petition has been filed.

3. Heard learned counsel appearing for the petitioner and learned Additional Public Prosecutor appearing for respondents. Perused the materials on record.

4. Learned counsel for the petitioner submits that though the bail application filed by the detenu is pending, the detaining authority has informed a real possibility of the detenu coming out on bail by filing another bail application since in a similar case bail was granted by learned Principal Sessions Judge, Chennai, in CrI.M.P.No.3480 of 2019 in respect of Crime No.78 of 2019 on the file of N1 Royapuram Police Station for offences under Sections 341, 294(b), 323, 336, 427, 392 r/w 397 and 506(ii) IPC. Learned counsel submits that in the case cited as similar, the offences alleged under Indian Penal Code are different from that of the offences alleged 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, in the similar case, relied on by the detaining authority in arriving at a subjective satisfaction, the offences alleged under Indian Penal Code 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., Sathya @ Loduku Sathya, Son of Varadharajan, aged about 23 years, in Memo No.601/BCDFGISSSV/2019 dated 16.09.2019, 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-IV)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai-600 009.
- 2.The Commissioner of Police,
Greater Chennai,
Vepery, Chennai.
- 3.The Superintendent of Prison,
Central Prison,
Puzhal, Chennai.
4. The Joint Secretary to Government,
Public (law & Order),
Fort Saint George, Chennai 9
- 5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.2397 of 2019

MR(CO)
GN(16/07/2020)