
(2014) 03 MAD CK 0031

In the Madras High Court

Case No : Habeas Corpus Petition No. 2338 of 2013

Jayanthi

APPELLANT

Vs

State of Tamil Nadu

RESPONDENT

Date of Decision : 11-03-2014

Acts Referred:

Constitution of India, 1950 — Article 22(5)
Penal Code, 1860 (IPC) — Section 392, 397

Citation : (2014) CriLJ 3675

Hon'ble Judges : V. Dhanapalan, J;G. Chockalingam, J

Bench : Division Bench

Judgement

V. Dhanapalan, J.—The petitioner is the sister of detenu. The detenu has been branded as a "Goonda" under the Tamil Nadu Act 14 of 1982 and detained under order of the 2nd respondent passed in Memo No.C3.D.O. No. 87/2013 dated 12.09.2013. The detenu came to adverse notice in the following case:--

The ground case alleged against the detenu is one registered on 01.08.2013 by the Inspector of Police, Vellore North Crime Police Station in Crime No. 444 of 2013 for offences under Sections 392 and 397, IPC. Aggrieved by the order of detention, the present petition has been filed.

2. Though learned counsel for the petitioner has raised several other grounds to assail the order of detention, he mainly focussed his argument on the ground that though the detaining authority relied on the bail order granted by this Court in a similar case on 04.06.2012 to one Sarath alias Sarath Kumar in Cri.O.P. No. 12031 of 2012, which is annexed at Page No. 133 of the booklet, a copy of bail petition pertaining to the said order has not been furnished to the detenu, which has deprived the detenu in making effective representation for his redressal and therefore, on this sole ground, the detention order is liable to be quashed.

3. We have heard the learned Additional Public Prosecutor on the above submission.

4. From a perusal of the detention order at paragraph No. 5, it is seen that the detaining authority stated that in a similar case registered at Vellore North Crime Police Station, Crime No. 316 of 2012 under Sections 392 and 397, IPC, bail was granted to the accused Thiru Sarath alias Sarath Kumar by the Hon"ble High Court, Madras in Cri. O.P. 12031 of 2012 on 04.06.2012 and bails are being granted by Courts in such cases and therefore, inferred that there is a real possibility of detenu being enlarged on bail in the pending bail application moved in respect of Crime No. 444 of 2013, ground case. In such situation, it is the duty of the detaining authority to provide bail order along a copy of bail petition. But close reading of the booklet, especially Page No. 133 reveals that a copy of bail order has only been furnished to the detenu without providing a copy of bail petition, which would definitely deprive him the opportunity of making effective representation to the authorities concerned. The same, which amounts to an infringement of right ensured under Article 22(5) of the Constitution of India, vitiates the order of detention. Thus, for the reasons stated hereinabove, the impugned detention order cannot be sustained. Accordingly, the impugned detention order passed by the 1st respondent, detaining the detenu Perumal alias Pitchai Perumal, S/o.Ramachandran, made in No.C3. D.O. No. 87/2013 dated 12.09.2013 is quashed and the Habeas Corpus Petition is allowed. The above named detenu, who is detained at the Central Prison, Vellore, is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.