
(2014) 03 MAD CK 0088
In the Madras High Court
Case No : H.C.P. No. 2169 of 2013

Manikandan

APPELLANT

Vs

State of Tamil Nadu

RESPONDENT

Date of Decision : 05-03-2014

Acts Referred:

Penal Code, 1860 (IPC) — Section 294(b), 307, 323, 336, 341

Citation : (2014) 1 LW(Cri) 506 : (2014) 2 MLJ(Cri) 277

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

Bench : Division Bench

Final Decision : Allowed

Judgement

V. Dhanapalan, J.—The detenu himself is the petitioner and challenge is made to the order of detention dated 27.08.2013 made in No.823/2013, passed by the second respondent under which the detenu has been branded as a "Goonda" and detained under The Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest-offenders, Goondas, Immoral Traffic Offenders, Sand offenders, Slum-Grabbers and Video Pirates Act, 1982 (hereinafter referred to as Tamil Nadu Act 14 of 1982).

2. As per the grounds of detention dated 27.08.2013, the detenu came to the adverse notice in the following cases :-

Sl. No.

Police Station & Crime No. Section of Law

1

S14 Peerankaranai Police Station Cr. No.140/2009 454 and 380 I.P.C.

2

S14 Peerankaranai Police Station Cr. No.363/2009 457 and 380 I.P.C.

3

S6 Shankar Nagar Police Station Cr. No.12/2010 454 and 380 I.P.C.

4

T4 Maduravoyal Police Station Cr. No.124/2010 379 I.P.C.

5

T4 Maduravoyal Police Station Cr. No.130/2010 379 I.P.C.

6

T4 Maduravoyal Police Station Cr. No.181/2010 457 and 380 I.P.C.

7

T4 Maduravoyal Police Station Cr. No.190/2010 454 and 380 I.P.C.

8

T4 Maduravoyal Police Station Cr. No.210/2010 341, 336, 427, 307 and 506(ii) r/w 397 I.P.C.

9

V4 Rajamangalam Police Station Cr. No.1132/2013 392 and 506(ii) I.P.C.

10

V6 Kolathur Police Station Cr. No.1260/2013 294(b), 384 and 506(ii) I.P.C.

3. In para 3 of the grounds of detention, it is stated that the detenu is also involved in the commission of the offence, which took place on 13.08.2013 at 11.30 hours, which led to the registration of a case by Inspector of Police, V6 Kolathur Police Station, in Crime No.1305 of 2013 for the offences under Sections 341, 294(b), 323, 336, 397 and 506(ii) I.P.C. It is further stated that the detenu was arrested on the same day and produced before the V Metropolitan Magistrate, Egmore, Chennai, and remanded to judicial custody. The detaining authority, on being satisfied upon the materials placed before him that the activities of the detenu are prejudicial to the maintenance of public order, clamped the order of detention. Challenging the said order, detenu is before this Court by way of this habeas corpus petition.

4. Learned counsel for the petitioner mainly focused his arguments on two grounds. Firstly, he would contend that the similar case relied on by the detaining authority is not at all similar in nature and secondly, there was only an assumption of offering sureties and the likelihood of the detenu coming out on bail. Therefore, the impugned order is vitiated in law.

5. We have heard the learned Additional Public Prosecutor appearing for the respondents on the above submission and perused the material documents

produced before us.

6. For appreciating the contentions raised by the learned counsel for the petitioner, the relevant averments in para 4 of the grounds of detention are extracted below:

5. I am aware that Thiru Manikandan is in remand in V6 Kolathur Police Station Crime Nos.1260/2013 and 1305/2013 and he has moved a bail application for V6 Kolathur Police Station Crime No.1260/2013 before the V Metropolitan Magistrate Court, Egmore in CrI.M.P.No.1668/2013 and bail was granted on 20.08.2013 and he is yet to offer sureties. He has moved a bail application for V6 Kolathur Police Station Cr.No.1305/2013 before the Court of Principal Sessions Judge at Chennai, in CrI.M.P.No.10093/2013 and the same was dismissed on 20.08.2013. He has moved another bail application for V6 Kolathur Police Station Cr.No.1305/2013 before the Court of Principal Sessions, Chennai in CrI.M.P.No.10703/2013 and the same is pending. In a similar case registered at V-5 Thirumangalam Police Station Cr.No.160/2013 under Sections 341, 294(b), 336, 427, 397 and 506(ii) I.P.C. bail was granted by the Court of Principal Sessions Judge, Chennai, in CrI.M.P.No.929/2013. Hence, I infer that he may come out on bail in V-6 Kolathur P.S. Cr.No.1260/2013 by offering sureties and it is very likely of his coming out on bail in V-6 Kolathur Police Station Crime No.1305/2013 before the appropriate court since in similarly placed cases bails are granted by courts after a lapse of time.

7. From a reading of paragraph 4 of the grounds of detention, it is clear that the detaining authority has inferred that the detenu may come out on bail in Crime No.1260 of 2013 by offering sureties and it is very likely of the detenu coming out on bail in Crime No.1305 of 2013. A perusal of the impugned order of detention would reveal that there are ten adverse cases and the offences involved are under Sections 454, 457, 379 and 380 I.P.C. In one case, the offences involved are under Sections 341, 336, 427, 307 and 506(ii) I.P.C. That being the position, the detaining authority relied on the similar case (found at Page No.189 of the booklet) which was registered for the offences under Sections 341, 294(b), 336, 427, 397 and 506(ii) I.P.C. The detenu is involved in adverse cases which were registered only for the offences under Sections 379 and 380 I.P.C. and in one case u/s 307 I.P.C. But the case relied on by the detaining authority as similar case, was registered for various offences and therefore, it is distinguishable. Moreover, in the ground case in Crime No.1305 of 2013, the offences involved are under Sections 341, 294(b), 323, 336, 397 and 506(ii) I.P.C. The case relied on as similar case should, not only be similar to the ground case but also to the adverse cases and therefore, the likelihood of the detenu coming out on bail cannot be a ground to sustain the order of detention.

8. As rightly contended by the learned counsel for the petitioner, there cannot be any assumption of execution of sureties and the possibility of the detenu coming out on bail and therefore, the subjective satisfaction arrived at by the detaining authority on this ground also is not proper and the detaining authority has not

applied its mind in arriving at the subjective satisfaction to detain the detenu. On these grounds, the impugned order of detention is liable to be quashed.

9. In the result, this habeas corpus petition is allowed and the impugned detention order made in No.823/2013 dated 27.08.2013, is set aside. The detenu Manikandan, S/o. Raja, is directed to be set at liberty forthwith, unless his custody is required in connection with any other case.

10. It is made clear that this order shall not preclude the prosecution to contest the matter effectively or confer any right on the detenu to claim anything before the regular Court.