

(2013) 07 MAD CK 0300

In the Madras High Court

Case No : Habeas Corpus Petition No. 342 of 2013

Nirmala

APPELLANT

Vs

The State and The Inspector of Police

RESPONDENT

Date of Decision : 17-07-2013

Acts Referred:

Constitution of India, 1950 — Article 22(5)

Penal Code, 1860 (IPC) — Section 294(b), 307, 323, 332, 341

Citation : (2013) 07 MAD CK 0300

Hon'ble Judges : V. Dhanapalan, J;C.T. Selvam, J

Bench : Division Bench

Advocate : J. Milton Arul Rajendran, for the Appellant; M. Maharaja, Assistant Public Prosecutor, for the Respondent

Final Decision : Allowed

Judgement

C.T. Selvam, J.—The petitioner is the mother of the detenu. The detenu has been branded as a "Goonda" as contemplated under Tamil Nadu Act 14 of 1982 and detained under order of the 2nd respondent passed in Memo No. 46/BDFGISSV/2013 dated 18.02.2013. The detenu came to adverse notice in the following cases:-

Sr. No.

Police Station and Crime No.

Sections of Law

1.

K-6, T.P. Chatram Police Station

Crime No. 1062 of 2012

Sections 341, 384 & 506(ii) IPC

2.

G-7, Chetpet Police Station,

Crime No. 4 of 2013

Sections 341, 294(b), 386 and 506(ii) IPC

3.

G-7, Chetpet Police Station,

Crime No. 7 of 2013

Sections 294(b), 332, 427, 307 and 506(ii) IPC

The ground case alleged against the detenu is one registered on 27.01.2013 by the Inspector of Police, G-7, Chetpet Police Station in Crime No. 56 of 2013 for offences under Sections 294(b), 341, 323, 307, 386 and 506(ii) IPC. Aggrieved by the order of detention, the present petition has been filed.

2. Learned counsel for the petitioner submits that while Crime No. 4 of 2012 on the file of the Inspector of Police, G-7, Chetpet Police Station, registered for offences under Sections 341, 294(b), 386 and 506(ii) IPC, is informed to be one of the adverse cases and it is stated that he has been released on bail in such case, such order of bail has not been furnished to the detenu.

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

4. Non furnishing of bail order would deprive the detenu 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, would vitiate the order of detention. For the aforesaid reason, this Court would allow the present petition. Accordingly, the impugned detention order passed by the 2nd respondent, detaining the detenu, namely, Sahayam @ Deva Sahayam, S/o. Johnson, made in Memo No. 46/BDFGISSV/2013 dated 18.02.2013 is quashed and the Habeas Corpus Petition is allowed. The above named detenu, who is detained in the Central Prison, Puzhal, Chennai, is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.