
(2014) 07 MAD CK 0178
In the Madras High Court
Case No : H.C.P. No. 3072 of 2013

Panjam

APPELLANT

Vs

State of Tamilnadu

RESPONDENT

Date of Decision : 04-07-2014

Acts Referred:

Constitution of India, 1950 — Article 22(5)

Penal Code, 1860 (IPC) — Section 294(b), 307, 336, 341, 392

Citation : (2014) 3 MLJ(Cri) 612

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

Bench : Division Bench

Judgement

V. Dhanapalan, J.—The petitioner is the maternal aunt of the Detenu. The Detenu Ramesh has been branded as a "Goonda" under the Tamil Nadu Act 14 of 1982 and detained under the order of the 2nd respondent passed in Memo No. 821/BDFGISSV/2013, dated 27.08.2013. The Detenu came to adverse notice in the following cases:

The ground case alleged against the Detenu is one registered on 06.08.2013 by the Inspector of Police, T-4 Maduravoyal Police Station in Crime No. 1076/2013 for offences under Sections 341, 294(b), 336, 427, 392, 307 and 506(ii) IPC.

2. Besides several grounds to assail the order of detention, learned counsel for the petitioner focussed his arguments on the ground that though the detaining authority arrived at the subjective satisfaction that there is a likelihood of the Detenu coming out on bail in respect of Crime Nos. 1041/2013 and 1062/2013 by filing bail applications before the appropriate court, there is no cogent material to support the decision of the detaining authority 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. For better appreciation of the case, relevant portion of the detention order is

extracted hereunder:

"4.... The sponsoring authority has stated that the relatives of Thiru. Ramesh is taking action to take him out on bail by filing bail applications for T-4 Maduravoyal Police Station Crime No. 1041/2013 and 1062/2013 before the appropriate court. Similarly in a case registered under Sections 294(b), 341, 336, 307, 397 and 506(ii) IPC at V-5 Thirumangalam Police Station Crime No. 1640/2011 bail was granted by the Court of Principal Sessions, Chennai, in Crl. M.P. No. 10992/2011. Hence, I infer that it is very likely of his coming out on bail in T-4 Maduravoyal Police Station in Crime No. 1067/2013 and there is real possibility of his coming out on bail in T-4 Maduravoyal Police Station in Crime Nos. 1041/2013 and 1062/2013 by filing bail applications before the appropriate court, since in similarly placed cases, bails are granted by courts after a lapse of time...."

5. A reading of the detention order shows that the detaining authority has arrived at a subjective satisfaction that the relatives of the Detenu are taking action to bail out the Detenu in Crime Nos. 1041/2013 and 1062/2013 (2nd and 3rd adverse cases) by filing bail applications before the appropriate court. It is true that the detaining authority is empowered to take a decision if there is material to support the possibility of the Detenu coming out on bail. But, in the Special Report annexed at page 152 of the booklet, the Sponsoring authority has stated that the Detenu has so far not filed any application seeking bail in Crime Nos. 1041/2013 and 1062/2013 and that no steps are taken by his relatives to bail out him in the said Crime Numbers. Thus, it is seen that no cogent material is available to support the decision of the detaining authority. The same, which amounts to infringement of right ensured under Article 22(5) of the Constitution of India, vitiates the order of detention. Thus, for the reason stated hereinabove, the impugned detention order cannot be sustained.

6. Accordingly, the impugned detention order passed by the 2nd respondent, detaining the Detenu Ramesh made in No. 821/BDFGISSV/2013 dated 27.08.2013 is quashed and the Habeas Corpus Petition is allowed. The above named Detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case. However, it is made clear that this order shall not preclude the authorities concerned to effectively contest the matter before the Regular Court, uninfluenced by the above order. It is also made clear that this order shall not confer any right or advantage whatsoever to the Detenu to claim anything before the Regular Court.