
(2014) 03 MAD CK 0218

In the Madras High Court

Case No : Habeas Corpus Petition No. 2236 of 2013

R. Jamuna

APPELLANT

Vs

State of Tamil Nadu

RESPONDENT

Date of Decision : 17-03-2014

Acts Referred:

Constitution of India, 1950 — Article 22(5)

Penal Code, 1860 (IPC) — Section 336, 341, 379, 392, 397

Citation : (2014) CriLJ 3355

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

Bench : Division Bench

Judgement

V. Dhanapalan, J.—The petitioner is the wife 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 No. 948/BDFGISSV/2013 dated 10-9-2013. The detenu came to adverse notice in the following case:--

The ground case alleged against the detenu is one registered on 16-8-2013 by the inspector of Police, T-3, Korattur Police Station in Crime No. 1439 of 2013 for offences under Sections 341, 336, 427, 506(ii), 392 r/w 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 has mainly focussed his argument on the ground that though the detaining authority relied on the bail order granted by the learned judicial Magistrate No. II, Poonamallee in a similar case to an accused therein the CrI. M.P. No. 8172 of 2012 and inferred that there is a likelihood of the detenu coming out on bail in respect of Crime No. 1424 of 2013, 3rd adverse case by filing bail application, but the said material relied on by the detaining authority has not been furnished to the detenu at the time of passing the order of detention, 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. A reading of the detention order shows that the detaining authority, by stating that in a similar case registered at T-6, Avadi Police Station in Crime No. 1677 of 2012 for offence under Section 379, IPC, bail was granted to the accused therein by the learned Judicial Magistrate No. II, Poonamallee in CrI. M.P. No. 8172 of 2012, inferred that there is a real possibility of detenu being enlarged on bail in the event of filing any bail application in respect of Crime No. 1424 of 2013, 3rd adverse case. In such situation, it is the duty of the detaining authority to provide a copy of both bail order and bail petition pertaining to the similar case to the detenu. But a perusal of the entire booklet reveals that there is no material annexed in it with respect to the similar case relied upon by the detaining authority, which in our considered opinion, would definitely 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, vitiates the order of detention. Thus, for the reason stated hereinabove, the impugned detention order cannot be sustained. Accordingly, the impugned detention order passed by the 2nd respondent, detaining the detenu Ramesh, S/o. Thurvasal, made in No. 948/BDFGISSV/2013 dated 10-9-2013 is quashed and the Habeas Corpus Petition is allowed. The above named detenu, who is confined at the Central Prison, Puzhal, Chennai, is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.