

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 31.10.2007

Coram:-

The Hon'ble Mr. Justice P.D.DINAKARAN
and
The Hon'ble Mr. Justice R.REGUPATHI

Habeas Corpus Petition No.1061 of 2007

Venkat @ Prakash @ Venkatesan Prakash ... Petitioner

vs.

1. The Commissioner of Police,
Greater Chennai,
Office of the Commissioner of Police,
Egmore, Chennai-8.

2. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.

3. The Superintendent of Police,
Central Prison, Puzhal, Chennai. Respondents

Petition under Article 226 of the Constitution of India for the issuance of writ of habeas corpus to produce the body of the detenu, who is confined in Central Prison, Puzhal, Chennai, before Court and set him at liberty, by quashing the order of detention passed by the first respondent in Memo No.240/BDFGISSV/2007, dated 14.06.2007 under the Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), branding him as an Immoral Traffic Offender and pass such further orders.

For Petitioner : Mr.Walter Solomon

For Respondents: Mr.N.R.Elango,
Additional Public Prosecutor.

O R D E R

(Delivered by P.D.DINAKARAN, J.)

The petitioner challenges the impugned order of detention, dated 14.06.2007, whereby, he has been detained as 'Immoral Traffic Offender'

as contemplated 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 (Tamil Nadu Act 14 of 1982).

2. From the grounds of detention, it is seen that on 04.06.2007 at about 8 P.M., one Jabaraj/complainant was talking with his friends by standing in front of Malar Hospital at Adyar, during which time, one Vinoth Kumar contacted him over his cell phone stating that young girls are available for intercourse and asked him to wait in front of Malar Hospital where he would come in a Maruthi Alto car bearing Registration No.TN02 Y 8216 with girls. The complainant informed the transaction made to him to the police personnel whom he found there in mufti. After some time, the said car arrived at the spot wherefrom the detenu got down and by introducing himself to complainant Jabaraj asked him get into the car, whereupon, the complainant signalling the police personnel got into the car and he was taken to a Bungalow at Tiruvanmiyur. By stating that he did not bring the amount demanded, he left that place and went to Anti Vice Squad, Chennai, and lodged a complaint, resulting in registration of a case in Crime No.42 of 2007 for offences under Sections 3(1)(a), 4(1), 5(1)(a), 6(1)(a) and 7(1) of I.T.P. Act. The Inspector of Police rushed to the spot and arrested the detenu and others and rescued the girls. The Detaining Authority, taking note of two adverse cases pending against the detenu and considering his activities prejudicial to the maintenance of public order, clamped the detention order on him.

3. Learned counsel appearing for the petitioner assails the order of detention on the sole ground that the representation sent to the Detaining Authority was not at all considered and disposed of; hence, the detention order has to be quashed.

4. We have perused the materials available on record in the background of the contention raised by the learned counsel for the petitioner. As could be seen from the typed set of papers, a representation, dated 21.06.2007, addressed to the Detaining Authority, was sent by the cousin of the detenu on 22.06.2007 ie., within 12 days from the date of the detention order. Though such representation was received by the office of the Detaining Authority on 23.06.2007, as evidenced by the postal receipt enclosed to the typed set of papers, the same was not considered and disposed of by the Detaining Authority. Inasmuch as the Detaining Authority, who has statutory obligation to consider and dispose of such representations as expeditiously as possible, failed to do so, we are of the view that such inaction on the part of the authority would go to the root of the detention order.

5. Accordingly, the Habeas Corpus Petition is allowed and the order of detention passed by the first respondent in the proceedings dated 14.06.2007 against the detenu are quashed and the detenu is directed to be set at liberty forthwith from custody unless he is required in connection with any other case or cause.

JI.

Sd/
Asst. Registrar

/true copy/

Sub Asst.Registrar

To

1. Secretary to Government,
Home Prohibition & Excise Department,
Secretariat, Chennai 9.
2. The Commissioner of Police, Greater Chennai.
O/o. The Commissioner of Police, Egmore, Chennai-8.
3. The Superintendent, Central Prison, Puzhal, Chennai.
4. The Joint Secretary to Govt
Public (Law and Order) Department
Fort St George, Chennai-9.
5. The Public Prosecutor, High Court, Madras.

+ One cc to M/s G. Walter Solaman, Advocate SR 65565

MS (co)

sg 14/11/07

HCP No.1061 of 2007.
31.10.2007.

सत्यमेव जयते

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