

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2016

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN
and
THE HON'BLE MR.JUSTICE S.NAGAMUTHU

H.C.P.No.2098/2015

I.Thiripurasundari

..

Petitioner

Vs

1.The Secretary to Government
Government of India
Ministry of Home Affairs
(Department of Internal Security)
North Block
New Delhi-110 001.

2.The Secretary to Lieutenant Governor
Rajnivas
Puducherry.

3.The District Magistrate-cum-
Authorised Officer
I Floor, Revenue Complex
Saram
Puducherry-605 013.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to call for the records relating to the petitioner's husband's detention under Section 3(1) of the Puducherry Prevention of Anti-Social Activities Act, 2008 (Act No.10 of 2010), vide, Detention Order passed by the 2nd respondent in proceedings No. 10/DM/RO/D2/PPASAA/2015, dated 17.08.2015, and quash the same as illegal and consequently, direct the respondents herein to produce the body of the detenu Iyyappan, S/o.Durairaju, who is presently detained in Central Prison, Kalapet, Puducherry, before this Court and set him at liberty.

For Petitioner

: Mr.S.Doraisamy

For Respondents

: Mr.A.N.Thambidurai,
Additional Public Prosecutor

ORDER

[Order of the Court was made by S.NAGAMUTHU, J.]

The petitioner is the wife of one Iyyappan, aged about 27 years, S/o.Durairaju, who has been detained under Section 3(1) of the Puducherry Prevention of Anti-Social Activities Act, 2008 (Act No.10 of 2010) branding him as a "Dangerous Person and Goonda", by the order of detention passed by the second respondent, vide, Proceedings No.10/DM/RO/D2/PPASAA/2015, dated 17.08.2015. Challenging the same, the petitioner is before this Court with this Habeas Corpus Petition.

2. We have heard, Mr.S.Doraisamy, the learned counsel for the petitioner, Mr.A.N.Thambidurai, the learned Additional Public Prosecutor appearing for the State and we have also perused the records carefully.

3. Though, several grounds have been raised in the petition, the learned counsel appearing for the petitioner would mainly focus his argument on the ground that the conclusion arrived at by the detaining authority in paragraph No.4 of the detention order that the detenu was trying to get bail and he may be released on bail is based on no material, which according to the learned counsel, would show total non-application of mind on the part of the detaining authority in passing the order of detention.

4.The learned Additional Public Prosecutor would submit that the fact remains that the detenu was trying to get bail in Crime No.338 of 2007 on the file of the Odiansalai Police Station.

5. We have considered the above submissions. Admittedly, the detenu was lodged in Central Prison, Kalapet, Puducherry, in connection with the case in Crime No.338 of 2007 on the file of the Odiansalai Police Station, but, the fact remains that the detenu did not file any petition seeking bail before any Court at all. While that being so, it is not known as to how the detaining authority has come to the conclusion that the detenu was trying to get bail and he may be released on bail at any moment. This conclusion arrived at by the detaining authority is based on no material, which would only reflects that the detaining authority has passed the detention order in total non-application of mind, which would vitiate the detention order.

6. In the light of the above, we have no hesitation in quashing the order of detention on the above mentioned ground.

7. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 17.08.2015, passed by the second respondent is set aside. The detenu is directed to be released forthwith unless his presence is required in connection with any other case.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

paa
To

- 1.The Secretary to Government
Government of India
Ministry of Home Affairs
(Department of Internal Security)
North Block
New Delhi-110 001.
- 2.The Secretary to Lieutenant Governor
Rajnivas, Puducherry.
- 3.The District Magistrate-cum-
Authorised Officer
I Floor, Revenue Complex
Saram, Puducherry-605 013.
- 4.The Additional Public Prosecutor,
High Court, Madras.
- 5.The Superintendent Central Prison,
Kalapet Puducherry
- 6.The Joint Secretary to Government
Public Law and Order Fort st.George
Chennai-9

+1 cc to M/s.S.Doraisamy Advocate sr.11300/16
+1 cc to Government Pleader PP(Pondy) sr.11332/16

H.C.P.No.2098/2015

aa08/03/2016