

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.02.2016

Coram:

THE HONOURABLE MR.JUSTICE M.JAICHANDREN
and
THE HONOURABLE JUSTICE S.NAGAMUTHU

H.C.P.No.2254 of 2015

Ganesan

.. Petitioner

vs.

1.The State of Tamil Nadu rep. by its
Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.

2.The Commissioner of Police,
Chennai Police, Vepery,
Chennai-7.

.. Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of a writ of Habeas Corpus to call for the records of the 2nd respondent vide his Memo No.BCDFGISSSV No.829/2015 dated 29.08.2015 and to produce the body of the detenu viz. Prakash @ Thavakkalai Prakash, aged about 32 years, son of Mahendran, who is presently detained in the Central Prison, Chennai, before this Court and set him at liberty.

For petitioner : Mr.V.Devendhiran

For Respondents : Mr.A.N.Thambi Durai,
1 and 2 Addl. Public Prosecutor (Crl.side)

O R D E R

(Order of the Court was made by M.JAICHANDREN, J.)

The petitioner is the brother of the detenu, namely, Prakash @ Thavakkalai Prakash. He has been detained by the 2nd respondent, namely, the Commissioner of Police, Chennai Police, Vepery, Chennai, under the Tamil Nadu Act 14 of 1982 as a 'Goonda' vide Detention Order in Memo No.BCDFGISSSV No.829/2015, dated 29.08.2015. Challenging the said detention order, the petitioner has come up before this Court with this Habeas Corpus Petition.

2. We have heard the learned counsel for the petitioner, the learned Additional Public Prosecutor (Crl. Side) appearing for the respondents and we have also perused the records, carefully.

3. The learned Counsel appearing on behalf of the petitioner has submitted that in paragraph 4 of the Detention Order, dated 29.08.2015, the Detaining Authority has stated that no bail application had been moved by the detenu in connection with J.2 Adyar Police Station in Crime No.2229 of 2015. It has been also stated that the relatives of the detenu Prakash are taking action to take him out on bail in the said case by filing a bail application before the appropriate court. However, from the records furnished to him, it is found that no statement had been recorded from the relatives in support of the said statement.

4. The learned Additional Public Prosecutor, appearing on behalf of the respondents, has not been able to show before this Court that the relatives of the detenu are taking action to move any bail application in connection with the case in Crime No.2229 of 2015 of J.2, Adyar Police Station. Under such circumstances, it is noted that the Detaining Authority has not applied his mind in passing the detention order. Hence, we find it appropriate to quash the detention order, passed by the Detaining Authority.

5. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order in BCDFGISSSV No.829/2015, dated 29.08.2015, passed by the second respondent is quashed. The detenu, namely, Prakash @ Thavakkalai Prakash, son of Mahendran, is directed to be released forthwith, unless his presence is required in connection with any other case.

Sd/-
Assistant Registrar(AS)

//True Copy//

Sub Assistant Registrar

To:

1. The Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.
2. The Commissioner of Police,
Chennai Police, Vepery,
Chennai-7.
3. The Superintendent, Central Prison,
Puzhal, Chennai-66.
4. The Joint Secretary to Government Public
(Law & order), Fort St. George, Chennai. 600 009.
5. The District Collector, Chennai.
6. The Additional Public Prosecutor,
High Court, Madras

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KJI (CO)
Eu 13.04.16



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