

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04-03-2016

CORAM

THE HONOURABLE MR.JUSTICE M.JAICHANDREN
AND
THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

HABEAS CORPUS PETITION No.2375 of 2015

Selvi

... Petitioner

Vs

1. The Secretary to Government
Home, Prohibition & Excise Department
Fort St. George, Chennai 600 009
2. The Commissioner of Police
Chennai City, Vepery, Chennai 7
3. The Inspector of Police
F3 Nungambakkam Police Station
Chennai

... Respondents

Habeas corpus petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus calling for the records in Memo No.845/BCDFGISSSV/2015 dated 31.8.2015, passed by the second respondent and quashing the same and consequently, directing the respondents to produce the detenu Vadivel, son of Kasi, aged 35 years, who is now confined at Central Prison, Puzhal, Chennai, before this Court and setting him at liberty.

For Petitioner : Mr.J.Milton Arul

For Respondents : Mr.A.N.Thambidurai
Additional Public Prosecutor

ORDER

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

This Habeas Corpus Petition has been filed by the mother of the detenu, namely, Vadivel, aged 35 years, son of Kasi, to issue a Writ of Habeas Corpus, to call for the records in No.845/2015, dated 31.8.2015, passed by the second respondent, detaining the detenu, under Section 3(1) of 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 14/1982), branding him as a "Goonda", and to quash the same and to direct the respondents to produce the body and person of the detenu and set him at liberty.

2. Even though a number of grounds had been raised by the petitioner in the present habeas corpus petition, the learned Counsel appearing on behalf of the petitioner, had submitted that the detaining authority has observed in paragraph No.4 of the impugned detention order, that the detenu viz. Vadivel, is in remand in F3 Nungambakkam Police Station Crime Nos.1277/2015 and 1279/2015, and he had moved a bail application before the Principal Sessions Court, Chennai in CrI.M.P.No.14478/2015 for F3 Nungambakkam Police Station Crime No.1279/2015, and the same is pending. It has also been observed that the Sponsoring Authority has stated that the relatives of the detenu viz. Vadivel, are taking steps to take him out on bail in F3 Nungambakkam Police Station Crime No.1277/2015, by filing bail application before the Court. But, no such materials are found in the booklet furnished to the detenu.

3. Resisting the contention of the learned counsel for the petitioner, the learned Additional Public Prosecutor had submitted that the impugned detention order has been passed on cogent and sufficient materials and there is no illegality or infirmity in the impugned order of detention.

4. As rightly contended by the learned Counsel appearing on behalf of the petitioner, no statements had been recorded from the relatives by the Sponsoring Authority. No materials are found furnished in the booklet supplied to the detenu, to substantiate the claim that the relatives of the detenu are taking steps to take him out on bail in F3 Nungambakkam Police Station Crime No.1277/2015, by filing bail application before the Court. Hence, we are of the view that there is non-application of mind on the part of the Detaining Authority, in arriving at a subjective satisfaction that since the relatives of the detenu are taking steps to take him out on bail in F3 Nungambakkam Police Station Crime No.1277/2015, it is very likely of the detenu coming out on bail and the same vitiates the impugned order of detention.

5. In the light of the above, we have no hesitation in quashing the order of detention on the ground of non-application of mind on the part of the Detaining Authority.

6. Accordingly, the habeas corpus petition is allowed and the detention order dated 31.8.2015, passed by the second respondent is quashed. The detenu is directed to be set at liberty, forthwith, unless his presence is required in connection with any other case.

Sd/-
Assistant Registrar(J)

To:

1. The Secretary to Government
Home, Prohibition & Excise Department
Fort St. George, Chennai 600 009
2. The Commissioner of Police
Chennai City
Vepery, Chennai 7
3. The Inspector of Police
F3 Nungambakkam Police Station
Chennai
4. The Superintendent,
Central Prison,
Puzhal, Chennai.
5. The Joint Secretary to Government,
Public(Law & Order),
Fort Saint George, Chennai - 9.
6. The Public Prosecutor
High Court, Madras.

H.C.P.No.2375 of 2015

MG(CO)
CA(12/04/2016)



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