

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.03.2016

CORAM

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

H.C.P.No.2569/2015

Veera Lakshmi .. Petitioner /Wife of the detenu
Vs

1.The State of Tamil Nadu,
Rep.by its Secretary to Government,
Home, Prohibition and Excise (XVI) Department,
Fort St.George,
Secretariat,
Chennai-600 009

2.The Commissioner of Police
Chennai. .. 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 of the detention order in Memo No.835/B.C.D.F.G.I.S.S.S.V./ 2015, dated 31.08.2015, on the file of the second respondent and quash the same and produce the petitioner's husband, namely, Balagurunathan, S/o.Murugan, aged about 37 years, confined at Central Prison, Puzhal, Chennai, and to set him at liberty.

For Petitioner : Mr.E.Kannadasan

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

WEB COPY

ORDER

[Order of the Court was made by M.JAICHANDREN,J]

This Habeas Corpus Petition has been filed, by the wife of the detenu, praying that this Court may be pleased to issue a Writ of Habeas Corpus, to call for the records, in Memo No.835/B.C.D.F.G.I.S.S.S.V./ 2015, dated 31.08.2015, passed by

the 2nd Respondent, detaining the detenu, namely, Balagurunathan, S/o.Murugan, aged about 37 years, under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, 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", in the Central Prison, Puzhal, Chennai, and to quash the same and to direct the Respondents to produce the body of the detenu and to set him at liberty, forthwith.

2. We have heard the learned counsel appearing on behalf of the petitioner and the learned Additional Public Prosecutor appearing on behalf of the State and we have also perused the records, carefully.

3. Though, a number of grounds had been raised by the petitioner, while challenging the impugned order of detention, dated 31.08.2015, the learned counsel, appearing on behalf of the petitioner, had submitted that, in paragraph No.4 of the grounds of detention, the detaining authority had stated that a CrI.M.P.No.13929 of 2015 had been filed on behalf of the detenu, seeking bail, in respect of the case, in Cr.No.1662 of 2015, on the file of the K.7, ICF Police Station, and that the said petition is pending. However, in the vernacular version furnished to the detenu, it had been stated that a bail petition is likely to be filed on behalf of the detenu, seeking bail. In view of the said contradiction, the detenu has been prevented from making an effective representation against the impugned order of detention.

4. The said submission made by the learned counsel appearing on behalf of the petitioner, had not been refuted by the learned Additional Public Prosecutor.

5. It is noted from paragraph No.4 of the grounds of detention, the detaining authority had stated that a CrI.M.P.No.13929 of 2015 had been filed on behalf of the detenu, seeking bail, in respect of the case, in Cr.No.1662 of 2015, on the file of the K.7, ICF Police Station and that the said petition is pending. However, in the vernacular version furnished to the detenu, it had been stated that a bail petition is likely to be filed on behalf of the detenu, seeking bail. The said contradiction would prejudice the detenu, in making an effective representation. In such circumstances, we find that there is non-application of mind on the part of the detaining authority, in passing the detention order. Therefore, we are inclined to set aside the impugned detention order.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 31.08.2015, 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.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary to Government
The State of Tamil Nadu,
Home, Prohibition and Excise (XVI) Department,
Fort St. George,
Secretariat,
Chennai-600 009
2. The Commissioner of Police
Chennai.
3. The Joint Secretary to Government,
Public (Law & Order)
Fort St. George, Chennai-9.
4. The Superintendent,
Central Prison,
Puzhal, Chennai.
5. The Additional Public Prosecutor,
High Court, Madras.

H.C.P.No.2569/2015

ala(CO)
srg(21/04/2016)