

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2016

CORAM

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

H.C.P.No.2641 of 2015

Ammu

..Petitioner

Vs.

1. The Secretary to Government,
Home, Prohibition and Excise Department
Secretariat,
Chennai 600 009.
2. The Commissioner of Police,
Chennai Police,
Egmore, 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 in connection with the order of Detention passed by the 2nd respondent dated 17.09.2015 in BCDFGISSSV No. 942 of 2015 against the husband of the petitioner BONDA @ Balaji, M/A 24 years, S/o. Pandurangan, who is confined at Central Prison, Puzhal, Chennai and to set aside the same and consequently direct the respondents to produce the detenu before the Hon'ble Court and set him at liberty.

For Petitioner :: Mr.K.S. Kaviarasu

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

ORDER

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

This Habeas Corpus Petition is filed, by the wife of the detenu, namely, BONDA @ Balaji, to issue a Writ of Habeas Corpus, to call for the records, in connection with the detention order in Memo No. BCDFGISSSV No. 942 of 2015 dated 17.09.2015, passed by the 2nd Respondent, detaining the detenu, under Section 2(f) of the Tamil Nadu Act 14/1982, branding him as a "Goonda", in the Central Prison, Puzhal, Chennai, and to set aside the same and to direct the respondents to produce the detenu and 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 for the State and we have also perused the records carefully.

3. Though, several grounds have been raised in this Habeas Corpus Petition, Mr. K.S. Kaviarasu, the learned counsel appearing on behalf of the petitioner, had assailed the impugned detention order mainly on the ground that the detaining authority had stated, in Paragraph No.4 of the order of detention, that no bail applications had been filed by the detenu, in respect of Crime Nos.444/2013, 744/2013 and 1262/2013, on the file of V.3, J.J. Nagar Police Station. However, in the detention order, it had been stated that the relatives of the detenu are taking action to take him out on bail, in respect of Crime Nos.444/2013, 744/2013 and 1262/2013, on the file of V.3, J.J. Nagar Police Station, by filing bail applications before the appropriate Court.

4. It is noted from the records available that no statements had been recorded from the relatives concerned to substantiate the claim that they are taking steps to move bail application, on behalf of the detenu, to take him out on bail, in the above said case. 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 detention order.

5. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 17.09.2015, 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

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To

1. The Secretary to Govt.,
Home, Prohibition and Excise Department
Secretariat,
Chennai 600 009.
2. The Commissioner of Police,
Egmore, Chennai.
3. The Superintendent Central Prison Puzhal,
Chennai.
4. The Joint Secretary to Government Public, (Law & order)
5. The Public Prosecutor,
High Court, Madras.

H.C.P. No. 2641 of 2015

RSY(CO)
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