

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.2680 of 2015

Mrs. Ranjitham

..Petitioner

Vs.

1. The State of Tamil Nadu
rep. by the Secretary to Govt.,
Home, Prohibition and Excise Department
Chennai 600 009.

2. The Commissioner of Police,
O/o. The Commisisoner of Police,
(Goonda Section),
Egmore, Chennai - 600 008.

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS to call for the entire records from the 2nd respondent in connection with order Memo BDFGISSV No. 784/2015 dated 26.08.2015 and quash the same and to produce the petitioner's son Vasudev @ Vasudevan S/o. Elumalai, aged about 29 years and now detained in Central Prison, Puzhal Chennai - 600 066 under the Tamil Nadu Act 14 of 1982 before this Hon'ble Court and set him at liberty.

For Petitioner :: Mr.P.K. Ilavarasan

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 mother of the detenu, namely, Vasudev @ Vasudevan, S/o. Elumalai, to issue a Writ of Habeas Corpus, to call for the entire records, relating to the detention order in Memo BDFGISSV No. 784/2015 dated 26.08.2015, passed by the 2nd Respondent, detaining the detenu, under Section 2(g) of the Tamil Nadu Act 14/1982, branding him as an "Immoral Traffic Offender", in the Central Prison, Puzhal,

Chennai, and to set aside the same and to direct the respondents to produce the detenu before this Court 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.P.K. Ilavarasan, 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 the relatives of the detenu are taking action to take him out on bail, in Anti Vice Squad Cr.No. 114/2015 and 115/2015, by filing bail applications before the appropriate Court. However, according to the learned counsel, there is no material to substantiate the same and further, even the bail application moved by the detenu in respect of Anti Vice Squad Crime No. 115/2015, before the learned 4th Metropolitan Magistrate, Saidapet, Chennai, had already been dismissed, on 24.08.2015.

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 cases. 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 26.08.2015, 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.

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Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

nv

To

1. The Secretary to Govt.,
Home, Prohibition and Excise Department
Secretariat, Chennai 600 009.

2. The Commissioner of Police,
O/o. The Commissioner of Police,
(Goondas Section),
Egmore, Chennai - 600 008.

3. The Public Prosecutor,
High Court, Madras.

4. The Superintendent
Central Prison, Puzhal,
Chennai

5. The Joint Secretary to Government
Public (Law and order) Fort Saint George,
Chennai

1 cc to M/s.P.K. Ilavarasan, Advocate, Sr. 20313

H.C.P. No. 2680 of 2015

SR (CO)
kk 26/4



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