

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.2716 of 2015

Mrs.R. Santhiya

..Petitioner

Vs.

1. The Secretary,
Home, Prohibition and Excise Department
Govt. Of Tamil Nadu,
Fort St. George,
Chennai 600 009.
2. The Commissioner of Police,
Salem City, Salem.

..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 relating to the order of detention made in C.M.P. No. 76/Goonda/Salem City/2015 dated 21.09.2015 and quash the same and direct the production of the detenu Raja S/o. Murugesan, detained in Central Prison, Salem, under the Act 14 of 1982 before this Hon'ble Court and set him at liberty.

For Petitioner :: Mr.A. Ganesan

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 detenu, namely, Raja S/o. Murugesan, to issue a Writ of Habeas Corpus, to call for the records, relating to the order of detention made in C.M.P. No. 76/Goonda/Salem City/2015 dated 21.09.2015, 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, Salem and to quash 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.A. Ganesan, 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 application had been filed by the detenu, in respect of Crime No. 176/2015 on the file of Veeranam 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 the said case, 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 21.09.2015, 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

To

1. The Secretary,
Home, Prohibition and Excise Department
Govt. Of Tamil nadu,
Fort St. George,
Chennai 600 009.

2. The Commissioner of Police,
Salem City, Salem.
3. The Superintendent,
Central Prison,
Salem.
(In duplicate for communication to Detenue)
4. The Joint Secretary to Government,
Public(Law & Order),
Fort Saint George, Chennai - 9.
5. The Public Prosecutor,
High Court, Madras.

H.C.P. No. 2716 of 2015

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