

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.05.2016

CORAM

THE HON'BLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

H.C.P.No.2832 of 2015

A.Pradeepa

..Petitioner

Vs.

1.State rep by
The Secretary of Government of Tamil Nadu
Home Prohibition & Excise Department
Secretariat, Chennai.

2.The Commissioner of Police
Chennai Police
Office of the Commissioner of Police
(Goondas Section)
Egmore, Chennai 600 008.

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, directing the respondent to produce the detenu, namely Anandbabu @ Bagavathi, S/o Sekar, aged about 27 years who was detained in Central Prison at Puzhal, Chennai as per Detention Order passed by the second respondent herein in BCDFGISSSV/No.939/2015 dated 17.09.2015 and bungled him as Goonda, before this Court and set him at liberty forthwith.

For Petitioner : Mr.M.Murali Vinoth

For Respondents : Mr.M.Maharaja

Addl. Public Prosecutor

O R D E R

[Order of the Court was made by K.KALYANASUNDARAM, J.]

Challenge is made to the order of detention passed by the second respondent vide Proceedings in No.939/2015 dated 17.09.2015, whereby the detenu by name, Anand Babu @ Bagavathi, Son of Sekar, aged about 27 years, was ordered to be detained under the provisions 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 of 1982) branding him as a "Goonda".

2. Though many grounds have been raised in the petition, Mr.M.Murali Vinoth, the learned counsel appearing for the petitioner, confines his argument only in respect of non-application of mind on the part of the detaining authority in passing the order of detention.

3. Learned counsel appearing for the petitioner submitted that the Detaining Authority has relied upon a similar case registered by V-5 Thirumangalam Police Station in Cr.No.160/2013 wherein bail was granted to the accused by the learned Principal Sessions Judge, Chennai in CrI.MP.No.929/2013. But, the said bail application has not been furnished to the detenu. This non-furnishing of the important document has deprived the detenu from making an effective representation. This has not been duly verified by the Detaining Authority before passing the order of detention. Therefore, it is submitted that this is indicative of total non-application of mind on the part of the detaining authority and the same vitiates the detention order and is unsustainable in law.

4. Per contra, the learned Additional Public Prosecutor would submit that the order of detention has been passed on cogent and sufficient materials and the same cannot be interfered with at the instance of the petitioner. Therefore, he submits that the Habeas Corpus Petition does not merit any consideration and the same is liable to be dismissed.

5. We have heard the learned counsel for both sides with regard to the facts.

6. When the similar case document relied upon was not available before the detaining authority, it is not known as to how the detaining authority had come to the subjective satisfaction by making reference about the said non-existent document. Hence, the detention order is liable to be set aside.

7. In the light of the above facts, we have no hesitation in quashing the order of detention on the above mentioned ground.

8. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order passed by the 2nd 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 IV)

//True Copy//

Sub Assistant Registrar

gms

To

1.The Secretary of Government of Tamil Nadu
Home Prohibition & Excise Department, Fort St. George,
Secretariat, Chennai.

2.The Commissioner of Police
Chennai Police
Office of the Commissioner of Police (Goondas Section)
Egmore, Chennai 600 008.

3. The Superintendent, Central Prison, Puzhal, Chennai.

4. The Joint Secretary to Government,
Public (Law & Order), Fort St. George, Chennai-9.

5. The Additional Public Prosecutor
High Court, Madras.

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SV(CO)
Eu 24.6.16



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