

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2016

CORAM

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

H.C.P.No.2853/2015

Thangaraj

.. Petitioner

Vs

1.The State of Tamil Nadu,
rep.by its Secretary to Government (Home)
Prohibition & Excise Department,
Secretariat, Chennai-9

2.The District Collector and District Magistrate
of Vellore District,
Vellore

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS directing the respondents to produce the body of the petitioner's son namely Guru @ Brama Guru, aged about 27 years, who is detained in Central Prison, Vellore, before this Court and set him at liberty forthwith, by calling for the records pursuant to the detention order made in C3.D.O.No.94/2015, dated 04.10.2015, on the file of the 2nd respondent and to quash the same.

For Petitioner : Mr.R.Nalliyappan

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

ORDER

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

This Habeas Corpus Petition has been filed, by the father of the detenu, namely, Guru @ Brama Guru, aged about 27 years, son of Thangaraj, praying that this Court may be pleased to issue a Writ of Habeas Corpus, to call for the records, in C3.D.O.No.94/2015, dated 04.10.2015, passed by the 2nd Respondent, detaining the detenu, under Section 3(1) 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 14/1982), the Tamil Nadu Act 14 of 1982, branding him as a "Goonda", in the Central Prison, Vellore, 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 04.10.2015, the learned counsel, appearing on behalf of the petitioner, had pointed out that, in paragraph No.5 of the grounds of detention, the detaining authority, had stated that he was aware that the detenu had filed bail application in the adverse case, in Crime No.415 of 2015 and in the ground case, in Crime No.418 of 2015, before the Principal Sessions Court, Vellore, in Crl.M.P.Nos.3759 and 3757 of 2015 and the same are pending before the said Court. However, in page No.76 of the Book-let furnished to the detenu, a copy of the order passed by the Principal Sessions Court, Vellore, dismissing the Crl.M.P.No.3759 of 2015, had been enclosed. Thus, it is clear that the detaining authority has not applied his mind properly, while passing the impugned detention order.

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 the records available that, though the bail application filed by the detenu, in the adverse case, in Crime No.415 of 2015, had been dismissed, by the Principal Sessions Court, Vellore, in paragraph No.5 of the detention order, the detaining authority had observed that the detenu had filed bail applications in the adverse case in Crime No.415 of 2015 and in the ground case, in Crime No.418 of 2015, and the same are pending in the Court, thereby deprived the detenu, from 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 04.10.2015, 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 VII)

//True Copy//

Sub Assistant Registrar

msk

To

1. The Secretary to Government (Home)
Prohibition & Excise Department,
Secretariat, Chennai-9
2. The District Collector and District Magistrate
of Vellore District,
Vellore.
3. The Superintendent, Central Prison,
Vellore.
4. The Joint Secretary to Government
Public (Law & order)
Fort St. George, Chennai-9.
5. The Additional Public Prosecutor,
High Court, Madras.

+ 1 cc to M/s. R. Nalliyappan, Advocate SR.20883

ALA(CO)
Eu 2.05.16

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