

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.2881 of 2015

Uma

... Petitioner/Sister  
of Detenue

Vs

1. The State of Tamil Nadu  
rep. by its Secretary to Government  
Home, Prohibition and Excise Department  
Fort St.George  
Chennai 600 009.
2. The Commissioner of Police,  
Greater Chennai Police,  
Vepery,  
Chennai-600 007
3. The Inspector of Police,  
V-7, Nolambur Police Station,  
Nolambur,  
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 of detention order dated 04.10.2015, in detention order No.1075/BCDFGISSSV/2015, on the file of the second respondent herein, to quash the same and to direct the respondents herein to produce the body of the Raja @ Thendral Raja, S/o.Govindaraj, Hindu, aged about 26 years, who is now confined in Central Prison, Puzhal, before this Court and set him at liberty.

For Petitioner : Mr.R.Thamaraiselvan

For Respondents : Mr.A.N.Thambidurai,  
Additional 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, Raja @ Thendral Raja, aged 26 years, Son of Govindaraj, to issue a Writ of Habeas Corpus, to call for the records, in No.1075/2015, 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, Puzhal, Chennai, and to quash the same and to direct the Respondents to produce the body of 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.R.Thamaraiselvan, 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 moved on behalf of the detenu, in V-7 Nolambur Police Station Crime No.576 of 2015. 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 V-7 Nolambur Police Station Crime No.576 of 2015, by filing bail application before the appropriate Courts. It had also been pointed out that no statement had been recorded from the relatives of the detenu with regard to the claim that they are taking steps to move bail application, on behalf of the detenu and no such statement had been furnished to the detenu.

4. The said submissions 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 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.

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 and Excise Department  
Fort St. George  
Chennai 600 009.
2. The Commissioner of Police,  
Greater Chennai Police,  
Vepery,  
Chennai-600 007
3. The Inspector of Police,  
V-7, Nolambur Police Station,  
Nolambur,  
Chennai
4. The Superintendent of Police,  
Central Prison, Puzhal, Chennai.
5. The Joint Secretary to Government,  
Public(Law & Order),  
Fort Saint George, Chennai - 9.
6. The Additional Public Prosecutor,  
High Court, Madras.

H.C.P.No.2881 of 2015

SR(CO)  
CA(27/04/2016)