

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.2893/2015

Sivagurunathan

..... Petitioner

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 District Magistrate and District
Collector, Coimbatore,
Coimbatore District

3.The Inspector of Police,
Sulur Police Station,
Coimbatore,
Coimbatore District

... 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 the detention order dated 27.10.2015, in detention order No.Cr.M.P.No.58/G/2015/E1, on the file of the second respondent herein, and quash the same and direct the respondents herein to produce the body of Vivek, S/o.Sivagurunathan, Hindu, aged about 26 years, who is now confined in Central Prison, Coimbatore, before this Court and set him at liberty.

For Petitioner : Mr.R.Subramanian

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, Vivek, aged 26 years, Son of

Sivagurunathan, to issue a Writ of Habeas Corpus, to call for the records, in Cr.M.P.No.58/G/2015/E1, dated 27.10.2015, 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, Coimbatore, 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.Subrramanian, 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.5 of the order of detention, that no bail application had been moved on behalf of the detenu, in Sulur Police Station Crime No.592 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 Sulur Police Station Crime No.592 of 2015, by filing bail application before the appropriate Courts. It had also been pointed out that no statements had been recorded from the relatives of the detenu with regard to the claim that they are taking steps to move bail applications, on behalf of the detenu and no such statements 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 27.10.2015, 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 VI)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary to Government
Home, Prohibition and Excise Department
Fort St. George
Chennai 600 009.
2. The District Magistrate and District
Collector, Coimbatore,
Coimbatore District.
3. The Inspector of Police,
Sulur Police Station,
Coimbatore,
Coimbatore District.
4. The Joint Secretary to Government,
Public(Law & Order),
Fort Saint George, Chennai - 9.
5. The Superintendent of Police,
Central Prison, Coimbatore.
(In duplicate for Communication to detenu)
6. The Additional Public Prosecutor,
High Court, Madras.

H.C.P.No.2893/2015

sai(CO)
srg(27/04/2016)