

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.03.2016

CORAM

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

H.C.P.No.2910/2015

Senthilkumar @ Palkara Senthil 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,
Collector's Office,
Coimbatore

... 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 in connection with the order of detention passed by the 2nd respondent in Cr.M.P.No.39/G/2015/E1 dated 23.07.2015 against the petitioner/detenu Senthil Kumar @ Palkara Senthil, Son of Nachimuthu, aged about 44 years, and who is now detained in Central Prison, Coimbatore and set aside the same and produce him before this Court and set him at liberty.

For Petitioner : Mr.Philip Ravindran Jesudoss

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

ORDER

[Order of the Court was made by S.NAGAMUTHU, J.]

Challenge is made to the order of detention passed by the second respondent vide Proceedings in Cr.M.P.No.39/G/2015/E1, dated 23.07.2015, whereby, the petitioner, Mr.Senthilkumar @ Palkara Senthil, S/o.Nachimuthu, aged 44 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, Sexual Offenders, Slum-grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982) branding him as a "Goonda" as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982.

2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the State and we have also perused the records carefully.

3. Though, several grounds were raised in the petition, the learned counsel appearing for the petitioner would mainly focus on the ground that though there were no bail applications pending in Periyanaickenpalayam Police Station Crime No.237 of 2015 and in Thudiyalur Police Station Crime No.226 of 2015, the detaining authority has stated that the wife of the detenu was taking steps to file bail applications in those cases, in which case, there was real possibility of the detenu coming out on bail. The learned counsel pointed out that to arrive at such a conclusion, there were no materials placed before the detaining authority at all.

4. The learned Additional Public prosecutor would submit that in the Special report submitted by the Inspector of Police, there is a statement to the effect that the wife of the detenu was taking steps to file bail applications, to take the detenu on bail, in connection with the cases in Crime Nos.237 and 226 of 2015.

5. We have considered the above submissions. Admittedly, as on the date of passing of the detention order, there were no applications filed by the detenu seeking bail, in Periyanaickenpalayam Police Station Crime No.237 of 2015 and in Thudiyalur Police Station Crime No.226 of 2015. Though it is alleged that his wife was taking steps to file applications, there were no materials available before the detaining authority, except the report of the Inspector of Police. Even the report of the Inspector of Police does not spell out as to how he came to know that the wife of the detenu was taking steps to file applications, to take the detenu on bail. Thus, in our considered view, without making proper application of mind relating to these facts, the detaining authority has passed the detention order. Therefore, we are inclined to set aside the same.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 23.07.2015, 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

To

1. The Secretary to Government,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai 600 009.
2. The District Collector,
Collector's Office,
Coimbatore.
3. The Superintendent of Police,
Central Prison,
Coimbatore.
4. The Joint Secretary to Government,
Public(Law & Order), सत्यमेव जयते
Fort Saint George,
Chennai - 9.

5. The Public Prosecutor,
High Court, Madras.

+1cc to Mr. Philip Ravindran Jesudoss, Advocate sr.13785

H.C.P.No.2910/2015

bvr (CO)
srg (15/03/2016)