

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.04.2016

Coram:

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

H.C.P.No.2928 of 2015

Venkatesh

.. Petitioner

vs.

1.State of Tamil Nadu  
rep. by its Secretary to Government (Home)  
Prohibition and Excise Department  
Fort St. George  
Chennai-600 009.

2.The District Collector  
and District Magistrate  
Erode District  
Erode.

.. 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 in Cr.M.P.No.27/Goonda/2015 C1, dated 29.07.2015, on the file of the second respondent, and quash the same and to direct the respondents to produce the body of the petitioner, namely, Venkatesh, S/o.Ranganathan, aged about 25 years, T.P.D.A.No.571, now confined at Central Prison, Coimbatore, before this Court, and to set him at liberty.

For Petitioner : Mr.B.Rajamani

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 detenu, Venkatesh, S/o.Ranganathan, aged about 25 years, praying that this Court may be pleased to issue a Writ of Habeas Corpus, to call for the records, in Cr.M.P.No.27/Goonda/2015 C1, dated 29.07.2015, passed by the 2nd Respondent, detaining the detenu under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers,

Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14/1982), 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 before this Court and to set him at liberty, forthwith.

2. We have heard, Mr.B.Rajamani, the learned counsel appearing on behalf of the petitioner; Mr.A.N.Thambidurai, 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 29.07.2015, the learned counsel, appearing on behalf of the petitioner, had submitted that, in paragraph No.5 of the grounds of detention, the detaining authority had stated that the detenu is lodged at Central Prison, Coimbatore, as a remand prisoner in the ground case in Modakkurichi Police Station Crime No.198 of 2015. He would further add that the detenu had been arrested and remanded in connection with the 4<sup>th</sup> adverse case in Erode District Erode North Police Station Crime No.500 of 2015 also, at the time of passing the Detention Order. However, the said fact had not been considered by the detaining authority and mechanically passed the impugned order of detention. On the ground of non-application of mind, the learned counsel, would contend that the impugned order is vitiated and the same is liable to be set aside.

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 paragraph No.5 of the grounds of detention, the detaining authority had stated that the detenu is lodged at Central Prison, Coimbatore, as a remand prisoner in the ground case in Modakkurichi Police Station Crime No.198 of 2015. It is further noted that the detenu had been arrested and remanded in connection with the 4<sup>th</sup> adverse case in Erode District Erode North Police Station Crime No.500 of 2015 also, at the time of passing the Detention Order. However, the said fact had not been considered by the detaining authority, while passing the detention order. 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 29.07.2015, 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 II)

//True Copy//

Sub Assistant Registrar

To

1.The Secretary to Government (Home)  
State of Tamil Nadu  
Prohibition and Excise Department  
Fort St. George  
Chennai-600 009.

2.The District Collector  
and District Magistrate  
Erode District  
Erode.

3.The Superintendent,  
Central Prison,  
Coimbatore.

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

5.The Additional Public Prosecutor  
High Court, Madras.

+1cc to Mr.B.Rajamani, Advocate sr.21892

H.C.P.No.2928 of 2015

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pvs(CO)  
srg(05/05/2016)