

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2016

CORAM

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

H.C.P.No.2971/2015

K.Rajeswari

.. 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 Collector cum District  
Magistrate, Cuddalore 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 pertaining to impugned order of detention passed by the 2nd respondent in C3/D.o/31/2015 dated 17.7.2015, against petitioner's husband Mr.G.Krishnan, son of Govindhasamy, aged about 45 years, under TN Prevention of Dangerous Activities of Bootleggers, cyber law offenders, 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), now confined in Central Prison, Cuddalore and quash the same as illegal, arbitrary, abuse of power, non-application of mind and consequently set the detenu at liberty.

For Petitioner : Mr.R.Veeramani

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 wife of the detenu, namely, Krishnan, aged 45 years, Son of Govindasamy, to issue a Writ of Habeas Corpus, to call for the records, in

No.C3/D.O/31/2015, dated 17.7.2015, passed by the 2nd Respondent, detaining him, 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, Cuddalore, and to quash the same and to direct the Respondents to produce the body of the detenu before this Court 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.Veeramani, the learned counsel appearing on behalf of the petitioner, had assailed the impugned detention order mainly on the ground that in paragraph No.6 of the Grounds of Detention, it is stated that the detenu was remanded to judicial custody in connection with Pennadam Police Station Crime No.122 of 2015. It is further stated, in the very same paragraph, that the detenu moved application seeking bail, in Cr.No.122 of 2015, before the Additional District and Sessions Judge, Thanjavur, in CrI.M.P.No.390 of 2015, and the same was dismissed. Thereafter, the detenu had not moved any bail application in the said case. While so, the Detaining Authority has concluded that in similar case in Vridhachalam Police Station Crime No.396 of 2014, bail was granted to the accused in that case and therefore, there is real possibility of the detenu coming out on bail in the Pennadam Police Station Crime No.122 of 2015. This is indicative of the non-application of mind on the part of the Detaining Authority and hence, the learned counsel had submitted that the detention order is vitiated and the same is liable to be quashed.

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 the detenu was remanded to judicial custody in connection with Pennadam Police Station Crime No.122 of 2015. He had moved application seeking bail, in the said case, before the Additional District and Sessions Judge, Thanjavur, in CrI.M.P.No.390 of 2015 and the same was dismissed. Thereafter, the detenu had not moved any bail application in the said case. While so, the Detaining Authority has concluded that in similar case, in Vridhachalam Police Station Crime No.396 of 2014, bail was granted to the accused in that case and therefore, there is real possibility of the detenu coming out on bail, in connection

with Pennadam Police Station Crime No.122 of 2015. 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 17.07.2015, 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(AS)

//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 District Collector cum District  
Magistrate, Cuddalore District
  - 3.The Superintendent of Police,  
Central Prison, Cuddalore.
  4. The Commissioner of Police Cuddalore District.
  5. The Joint Secretary to Government Public  
(Law & order), Fort St. George, Chennai. 600 009.
  - 6.The Additional Public Prosecutor,  
High Court, Madras.
- + 1 cc to Mr.R. Veeramani, Advocate SR.21908

H.C.P.No.2971/2015

LRS (CO)  
Eu 27.04.16