

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.2992/2015

Tmt.J.Rita

..... 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 Commissioner of Police,
Greater Chennai Police,
Vepery,
Chennai-600 007

.. 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 made in BCDFGISSSV No.1160 of 2015, dated 03.11.2015, on the file of the second respondent herein and set aside the same and direct the respondents to produce the body of Thiru J.Merwin, son of Joseph Selvam, the detenu, herein, now confined in Central Prison, Puzhal, Chennai, before this Court and set him at liberty.

For Petitioner :

Mr.S.Senthilvel

for Mr.M.Anandaraj

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, Merwin, aged 31 years, Son of Joseph Selvam, to issue a Writ of Habeas Corpus, to call for the

records, in BCDFGISSSVV No.1160 of 2015, dated 03.11.2015, 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.S.Senthilvel, the learned counsel appearing on behalf of the petitioner, has 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 applications had been moved on behalf of the detenu, in E-4 Abiramapuram Police Station Crime Nos.2644 and 2782 of 2015. However, in the detention order it has been stated that the relatives of the detenu are taking action to take him out on bail, in E-4 Abiramapuram Police Station Crime Nos.2644 and 2782 of 2015, by filing bail applications 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 applications on behalf of the detenu, to take him out on bail, in the above said cases. 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 03.11.2015, 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 Commissioner of Police,
Greater Chennai Police,
Vepery,
Chennai-600 007
- 3.The Superintendent of Police,
Central Prison, Puzhal, Chennai.
4. The Joint Secretary to Government
Public (Law & Order) Department
Fort St.George, Chennai 9.
5. The District Collector,
Chennai.
- 6.The Additional Public Prosecutor,
High Court, Madras.

सत्यमेव जयते

H.C.P.No.2976/2015

lrs co
kra 27.04.2016

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