

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.3039 of 2015

Anand

... 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,
Chennai

... 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 connected with the order of the 2nd respondent passed in No.551/2015, dated 14.07.2015 and quash the same and further direct the respondent to produce the body of the petitioner Anand, aged about 23 years, S/o.Ganesan, now confined in Central Prison, Puzhal, Chennai-600 066, before this Court and set him at liberty forthwith.

For Petitioner : Mr.S.Sukumar

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 detenu, namely, Anand, aged 23 years, Son of Ganesan, to issue a Writ of Habeas Corpus, to call for the records, in No.551 of 2015, dated 14.07.2015, 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, 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.Sugumar, the learned counsel appearing on behalf of the petitioner, had assailed the impugned detention order mainly on the ground that in paragraph No.4 of the Grounds of Detention, it is stated that the detenu was remanded to judicial custody in connection with two cases, in C.M.B.T. Police Station Cr.Nos.559 and 778 of 2015. It is further stated, in the very same paragraph, that the detenu moved application seeking bail, in Cr.No.778 of 2015, before the Principal Sessions Judge, Chennai, in Crl.M.P.No.8777 of 2015 and the same was dismissed. Again, he has moved bail application, in the said case, before this Court, in Crl.O.P.No.16814 of 2015, and the same is pending. It is also stated, in the same paragraph, that the detenu had moved bail application in K-11 C.M.B.T. Police Station Crime No.559 of 2015, before the V Metropolitan Magistrate, Egmore, Chennai, in Crl.M.P.No.1197 of 2015 and the same was dismissed. While so, the Detaining Authority has concluded that the relatives of the detenu are taking action to take him out on bail, in K-11 C.M.B.T.Police Station Crime No.559 of 2015, by filing bail application before the appropriate Court and there is real possibility of the detenu coming out on bail in the said case. 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. 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 application, 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 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 14.07.2015, 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(CO)

//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,
Chennai
3. The Superintendent of Police,
Central Prison,
Puzhal, Chennai.
4. The Joint Secretary to Government,
Public(Law & Order),
Fort Saint George, Chennai - 9.
5. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.S.Sukumar, Advocate, S.R.No.21442

H.C.P.No.3039 of 2015

SCD(CO)
CA(29/04/2016)