

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.04.2016

CORAM

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

H.C.P.No.3045/2015

Sundaramoorthy

..... Petitioner

Vs

1.The Commissioner of Police,
Salem City, Salem.

2.State of Tamil Nadu,
rep.by Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai-600 009

... 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 first respondent herein pertaining to the detention order made in order No.CMP.No.19/GOONDA/Salem City/2015, dated 30.1.2015 and to set aside the order of detention as contemplated under Section 3(1) of the Tamil Nadu Act 14 of 1982 and direct the first respondent to produce the detenu/petitioner Sundaramoorthy, male aged 27 years, son of Panchappan, now detained at Central Prison, Salem, before this Court and set him at liberty.

For Petitioner : Mr.O.A.Dineshkumar

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

ORDER

[Order of the Court was made by M.JAICHANDREN,J]

This Habeas Corpus Petition is filed by the detenu, namely, Sundaramoorthy, aged 27 years, Son of Panchappan, to issue a Writ of Habeas Corpus, to call for the records, in C.M.P.No.19/Goonda/Salem City/2015, dated 30.1.2015, passed by the 1st 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, Salem, 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.O.A.Dineshkumar, the learned counsel appearing on behalf of the petitioner, had assailed the impugned detention order mainly on the ground that the detaining authority had stated, in Paragraph No.5 of the order of detention, that the detenu had filed bail applications in Ammapet Police Station Crime Nos.26 of 2014, 774 of 2014 and 776 of 2014, and the same are pending before the Court. However, in the detention order it had been stated that the relatives of the detenu are taking action to take him out on bail, in Ammapet Police Station Crime Nos.770 of 2014 and 779 of 2014, by filing bail applications before the appropriate Courts. It had also been pointed out that no statement 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 statement 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 30.1.2015, passed by the first respondent is set aside. The detenu is directed to be released forthwith unless his presence is required in connection with any other case.

msk

s/d-

Assistant Registrar (CS-III)

True Copy

Sub-Assistant Registrar

To

1. The Secretary to Government
Home, Prohibition and Excise Department
Fort St. George
Chennai 600 009.

2. The Commissioner of Police,
Salem City, Salem.

3. The Superintendent of Police,
Central Prison, Salem.

4. The Joint Secretary to Govt.
Public (Law and Order)
Fort St. George, Chennai 9.

5. The Public Prosecutor,
High Court, Madras.

+ 1 cc to Mr. O.A. Dineshkumar, Advocate SR 26352

ad(co)
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