

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2016

CORAM

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

H.C.P.No.3097/2015

Mrs.Jensa

... Petitioner

Vs

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

2.The Commissioner of Police,
Chennai Police,
Office of the Commissioner of Police,
Egmore, Chennai-600 008

... 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 second respondent herein in his proceedings under Memo No.484/BCDFGISSSV/2015 dated 21.06.2015 and quash the same and consequently direct the respondents to produce the petitioner's husband by name Murugan, male, aged about 24 years, son of Archunan, confined in Central Prison, Puzhal, Chennai, before this Court and set him at liberty forthwith.

For Petitioner : Mr.S.Gopi

For Respondents: Mr.A.N.Thambidurai
Additional Public Prosecutor

ORDER

[Order of the Court was made by S.NAGAMUTHU, J.]

Challenge is made to the order of detention passed by the second respondent vide Proceedings in Memo No.484/BCDFGISSSV/2015, dated 21.06.2015, whereby, the husband of the petitioner, by name, Mr.Murugan, S/o.Archunan, aged 24

years, was ordered to be detained under the provisions of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, 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) branding him as a "Goonda" as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982.

2. We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the State.

3. Though several grounds have been raised in the petition, the learned counsel appearing for the petitioner would focus his argument on the ground that though the detaining authority has concluded that there was likelihood of the detenu coming out on bail, as his relatives had been making arrangement to file application seeking bail, there were no materials before the detaining authority. This, according to the learned counsel, would go to show the total non-application of mind on the part of the detaining authority.

4. The learned Additional Public Prosecutor would submit that the Inspector of Police has filed a report, wherein it is stated that some of the relatives of the detenu were taking steps to file an application, seeking bail. But he would submit that the details of the relatives, who were taking steps, are not before this Court, as there were no statements recorded from such relatives.

5. Admittedly there was no application filed by the detenu seeking bail in the case. If that be so, in the absence of any application for bail, it is not understandable as to how the detaining authority has come to the conclusion that there was likelihood of the detenu coming out on bail. Now, it is stated that the relatives of the detenu are taking steps to file application for bail. There are no such details available and no such details were furnished to the detaining authority also. As rightly contended by the learned counsel for the petitioner, there was non application of mind on the part of the detaining authority. Hence, we have no hesitation in quashing the order of detention on the above mentioned ground.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order dated 21.06.2015 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 III)

//True Copy//

Sub Assistant Registrar

msk
To

- 1.The Secretary to Government of Tamil Nadu,
Prohibition and Excise Department(Home)
Secretariat, Fort St.George,
Chennai-600 009
 - 2.The Commissioner of Police,
Chennai Police,
Office of the Commissioner of Police,
Egmore, Chennai-600 008
 3. The Superintendent, Central Prison,
Puzhal, Chennai-.
 4. The Joint Secretary to Government Public
(Law & order), Fort St. George, Chennai. 600 009.
 - 5.The Public Prosecutor,
High Court, Madras.
- + 1 cc to Mr.S. Gopi, Advocate sr.10910

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LRS(CO)
Eu 10.03.16