

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.3266/2015

Priya

..... 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 and
District Magistrate,
Erode District

3.The Inspector of Police,
Sathyamangalam Police Station,
Erode 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 entire records relating to the impugned order of detention passed by the 2nd respondent vide CrI.M.P.No.41/GOONDA/2015 C1, dated 26.11.2015 and set aside the same and consequently, direct the respondent to produce the detenu, namely, Prakash alias Saravanaprakash, aged 25 years, son of Rajendran, now confined at Central Prison, Coimbatore, before this Court and set him at liberty forthwith.

For Petitioner : Mr.S.Parthasarathy

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 wife of the detenu, namely, Prakash alias Saravanaprakash, aged 25 years, Son of Rajendran, to issue a Writ of Habeas Corpus, to

call for the records, in Cr.M.P.No.41/Goonda/2015 C1, dated 26.11.2015, 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, Coimbatore, 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.Parthasarathy, the learned counsel appearing on behalf of the petitioner, had assailed the impugned detention order mainly on the ground that in paragraph No.5 of the Grounds of Detention, it is stated that the detenu was remanded to judicial custody, in connection with Sathyamangalam Police Station Crime No.489 of 2015. It is further stated, in the very same paragraph, that the detenu had not moved any bail application in the said case. While so, the Detaining Authority has concluded that in similar case, in Sathyamangalam Police Station Crime No.362 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 Sathyamangalam Police Station Crime No.489 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 Sathyamangalam Police Station Crime No.489 of 2015. He had not moved any bail application in the said case. While so, the Detaining Authority has concluded that in similar case, in Sathyamangalam Police Station Crime No.362 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 Sathyamangalam Police Station Crime No.489 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 26.11.2015, 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.

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 District Collector and
District Magistrate,
Erode District

3.The Inspector of Police,
Sathyamangalam Police Station,
Erode District

4.The Superintendent of Police,
Central Prison, Coimbatore.

5.The Public Prosecutor,
High Court, Madras.

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

+ 1 cc to Mr.S.Parthasarathy, Advocate SR 26548

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