

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.3270/2015

Vijayaraghavan Petitioner

Vs

1.The Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat, Chennai-600 009

2.The District Collector and
District Magistrate,
Coimbatore District

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, directing the detaining authority to produce the detenu Mr.Vijayaraghavan, male, aged 32 years, s/o.Balasubramani, residing at Door No.50, 6th Cross, Sivathangam Nagar, Vilankurichi Road, Coimbatore, presently detained in the Central Prison in Coimbatore, before this Court by calling for the records relating to the preventive detention order dated 09.09.2015, in Cr.M.P.No.51/G/2015/E1, which was passed by the 2nd respondent and to quash the same.

For Petitioner

:Mr.K.Govindan

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, Vijayaraghavan, aged 32 years, Son of Balasubramani, to issue a Writ of Habeas Corpus, to call for the records, in

C.M.P.No.51/G/2015/E1, dated 09.09.2015, 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.K.Govindan, 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.5 of the order of detention, that no bail application had been moved on behalf of the detenu, in Karumathampatti Police Station Crime No.303 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 Karumathampatti Police Station Crime No.303 of 2015, by filing bail application before the appropriate Court. 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 application 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 09.09.2015, 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

To

- 1.The Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat, Chennai-600 009
- 2.The District Collector and
District Magistrate,
Coimbatore District
- 3.The Superintendent of Police,
Central Prison, Coimbatore.
- 4.The Public Prosecutor,
High Court, Madras.
- 5.The Joint Secretary to Government,
Public (Law & Order),
Fort Saint George, Chennai-9.

+1cc to Mr.K.Govindan, Advocate sr.26885

H.C.P.No.3270/2015

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srg(27/05/2016)