

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2016

CORAM

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

H.C.P.No.1066 of 2016

Kumar @ Kulla Kumar .. Petitioner

Vs

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

2.The Commissioner of Police,
Chennai city police,
Commissioner Office, Vepery,
Chennai-600 007. .. 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 relating to the impugned order in No.423/BCDFGISSSV/2016, dated 13.4.2016, on the file of the second respondent and to set aside the same as illegal and to direct the respondents to produce the detenu Kumar @ Kulla Kumar, son of Manickam, aged about 45 years, now confined at the Central Prison, Puzhal, Chennai, before this Court and to set him at liberty.

For Petitioner : Mr.Ilayaraja Kandasamy

For Respondents : Mr.V.M.R.Rajentran, APP

ORDER

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

This Habeas Corpus Petition has been filed by the detenu, namely, Kumar @ Kulla Kumar, son of Manickam, aged about 45 years, to issue a Writ of Habeas Corpus, to call for the

records, in No.423/BCDFGISSSV/2016, dated 13.4.2016, passed by the second 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 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, as well as 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, 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.4 of the order of detention, that the detenu is in remand in K-3 Aminjikarai Police Station Crime Nos.123/2016 and 202/2016 and that he has not moved any bail application, for the above said crime numbers. It has been further stated that the relatives of the detenu are taking steps to take him out on bail, in K-3 Aminjikarai Police Station Crime Nos.123/2016 and 202/2016, 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 appearing on behalf of the respondents.

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 a bail application on behalf of the detenu, to take him out on bail, in K-3 Aminjikarai Police Station Crime Nos.123/2016 and 202/2016. 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 13.4.2016, 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 VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
The State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-600 009.
2. The Commissioner of Police,
Greater Chennai.
3. The Superintendant, Central Prison,
Puzhal, Chennai.
4. The Joint secretary to Govt. Public (law & Order)
Fort St. George, Chennai.
5. The Public Prosecutor,
High Court, Madras.

H.C.P.No.1066 of 2016

ALA(CO)
MA(29/12/2016)

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