

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2016

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN

and

THE HON'BLE MR.JUSTICE S.BASKARAN

H.C.P.No.1082 of 2016

R.Ambika ... Petitioner

Vs

1.The Principal Secretary to Government,
Home, Prohibition and
Excise Department,
Secretariat,
Chennai-9.

2.The District Collector and
District Magistrate,
Krishnagiri District,
Krishnagiri. ... 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 in respect of the detention order, dated 26.4.2016, in S.C.No.7/2016, on the file of the second respondent and to quash the same and to set the detenu Prakash @ Abbiah @ Doss, son of Sanjeevappa, at liberty, forthwith.

For Petitioner : Mr.D.Rajagopal

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 wife of the detenu, namely, Prakash @ Appaiah @ Doss, son of Sanjeevappa, aged about 38 years, to issue a Writ of Habeas Corpus, to call for the records, in S.C.No.07/2016, dated

26.4.2016, 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, 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, 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 has not filed any bail applications, so far, in the adverse case in Crime No.104 of 2016 and in the ground case in Crime No.105 of 2016, on the file of the Uthanappalli Police Station. It has been further stated that the relatives of the detenu are taking steps to take him out on bail, in the above said crime numbers, by filing a 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 a bail application, on behalf of the detenu, in the said Crime Nos.104 of 2016 and 105 of 2016 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 the above said adverse case in Crime No.104 of 2016 and the ground case in Crime No.105/2016, on the file of the Uthanappalli Police Station. 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 26.4.2016, 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

vvk

To

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

+ 1 cc to Mr.D. Rajagopal, Advocate SR.65327

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BR(CO)
EU 10.12.16