

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2016

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN

and

THE HON'BLE MR.JUSTICE S.BASKARAN

H.C.P.No.1108 of 2016

Sivaranjani

.. Petitioner

Vs

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

2.The Commissioner of Police,
Greater Chennai,
Chennai.

.. 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 order of detention passed by the second respondent, dated 25.4.2016, in BCDFGISSSV No.470/2016, against the husband of the petitioner, detenu Appu @ Deepak, aged about 24 years, son of Dayalan, who is confined at Central Prison, Puzhal, Chennai and to set aside the same and consequently direct the respondents to produce the detenu before this Court and to set him at liberty.

For Petitioner : Mr.K.S.Kaviarasu

For Respondents : Mr.V.M.R.Rajentren
Additional Public Prosecutor

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, Appu @ Deepak, son of Dayalan, aged about 24 years, to issue a Writ of Habeas Corpus, to call for the records, in

No.470/BCDFGISSSV/2016, dated 25.4.2016, 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 contended that the detaining authority, while passing the impugned detention order, has taken into consideration the ground case registered in Crime No.262 of 2016, on the file of the P-4 Basin Bridge Police Station, wherein the detenu has moved a bail application, before the court concerned. However, the detaining authority has not considered the second adverse case, registered in Crime No.259 of 2016, on the file of the P-4 Basin Bridge Police Station. According to the petitioner, the non consideration of the second adverse case, by the detaining authority, shows his lack of application of mind, while passing the detention order.

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 the Detaining Authority, while passing the detention order, had considered the ground case registered in Crime No.262 of 2016, on the file of the P-4 Basin Bridge Police Station. However, on a perusal of the detention order, it is clear that the second adverse case, in Crime No.259 of 2016, on the file of the same police station, wherein the detenu had been arrested, was not considered by the Detaining Authority, while passing the order of detention. In such circumstances, the non consideration of the second adverse case by the Detaining Authority in the order of detention, has caused prejudice to the detenu. This shows the non application of mind on the part of the detaining authority, while 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 25.4.2016, 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.

vvk

Sd/-
Assistant Registrar (CS-)

/TRUE COPY/

Sub-Assistant Registrar

To

1. The Secretary to Government,
State of Tamil Nadu
Home, Prohibition and Excise Department,
Fort St.George, Chennai-600 009.
- 2.The Commissioner of Police,
Greater Chennai,
Chennai.
- 3.The Superintendent,
Central Prison, Puzhal, Chennai
- 4.The Joint Secretary to Government
Public Law & Oder, Secretariat, Chennai-9.
- 5.The Public Prosecutor,
High Court, Madras.

सत्यमेव जयते

H.C.P.No.1108 of 2016

MG [CO]

MSI 28/12/2016

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