

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.1121 of 2016

Kala ... Petitioner/Wife of the
detenue

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,
Greater Chennai Police,
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 pertaining to the order of detention passed by the second respondent pertaining to the order made in Memo in No.351/BCDFGISSSV/2016, dated 26.3.2016 is detaining the detenue under 2(F) of Tamil Nadu Act of 1982 as a Goondas Act and quash the same and to direct the respondents to produce the detenu Suman @ Kithappu, son of Chinnasamy, aged about 34 years, who is detained in the Central, Puzhal, Chennai, before this Court and set him at liberty.

For Petitioner : Mr.P.Hariganesh

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

WEB COPY

ORDER

[Order of the Court was made by S.BASKARAN, J.]

This Habeas Corpus Petition has been filed by the wife of the detenu, namely, Suman @ Kithappu, aged about 34 years, son of Chinnasamy to issue a Writ of Habeas Corpus, to call for the records, in No.351/BCDFGISSSV/2016, dated 26.3.2016, 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. The learned counsel appearing for the petitioner contends that the detaining authority, in paragraph No.4 of the impugned order of detention, has stated that the detenu has filed bail applications for P-1 Pulianthope Police Station Crime Nos.104 of 2016 and 239 of 2016, before the Court of Principal Sessions Judge, Chennai, in Cr.M.P.Nos.4383 of 2016 and 4382 of 2016, respectively and the same are pending. It has been further stated in the order of detention that already, bail had been granted by the Court of Principal Sessions Judge, Thiruvallur, in CrI.M.P.No.3098 of 2015, relating to Crime No.690 of 2015, on the file of the T-10, Thirumullaivoyal Police Station. The learned counsel appearing for the petitioner has contended that no document relating to the similar case of the second adverse case was furnished to the detenu. This has prevented the detenu from making an effective representation against the impugned order of detention. Thus, 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 appearing on behalf of the respondents.

5. On verification of the records, it is seen that the detaining authority had stated in the order of detention that the detenu had filed two bail applications, for the second adverse case and the ground case and the same are pending. The

detaining authority had also mentioned about a similar case, wherein bail had been granted. However, no documents relating to the similar case of the second adverse case was furnished to the detenu, which has prevented the detenu from making an effective representation and to take further steps. In such circumstances, we are inclined to set aside the detention order.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 26.3.2016, 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.

-s/d-

Assistant Registrar

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 Police,
Chennai-7.
- 3.The Director General of Police
Tamil Nadu, Chennai-4
- 4.The Superintendent of Central Prison
Puzhal Chennai
- 5.The Joint Secretary to Government
Public Law and Order Fort St. George
Chennai-9
- 6.The Public Prosecutor,
High Court, Madras.

H.C.P.No.1121 of 2016

pvs (co)
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