

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.1124 of 2016

Dheivayani

Petitioner/W/o the
detenue

Vs

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai-600 009.
- 2.The District Collector and
District Magistrate,
Villupuram District,
Villupuram.

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 No.C2/8110/2016, dated 16.4.2016, on the file of the second respondent herein and to quash the same, as illegal and consequently direct the respondents to produce the detenu Radha @ Radhakrishnan, son of Viswanathan, aged about 34 years, who is now confined in the Central Prison, Cuddalore, before this court and to set him at liberty.

For Petitioner : Mr.K.Gadhi Kumar

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

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, Radha @ Radhakrishnan, son of Viswanathan,

aged about 34 years, to issue a Writ of Habeas Corpus, to call for the records, in No.C2/8110/2016, dated 16.4.2016, 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, Cuddalore, and to quash the same and to direct the Respondents to produce the body of the detenu and to 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 for the petitioner contends that no bail petition has been filed by the detenu in respect of the first adverse case, in Crime No.184 of 2015, on the file of Kanai Police Station. It has been further stated that no bail petition has been filed by the detenu or by his relatives before the lower court or in the High Court. Therefore, there is no real possibility of the detenu coming out on bail, in the near future. The learned counsel for the petitioner further contends that the second adverse case, in Crime No.789 of 2015, on the file of the Villupuram Taluk Police Station, was not at all considered by the detaining authority, while passing the order of detention. Therefore, the conclusion of the detaining authority that there is a possibility of the detenu coming out on bail shows his non 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. On verification of the records, it is apparent that no bail application has been filed by the detenu in the first adverse case, in Crime No.184 of 2015, on the file of Kanai Police Station. It has been further stated in the detention order that no bail petition has been filed by the detenu or by his relatives, in the lower court or in the High Court. In such circumstances, the statement of the detaining authority in the detention order that there is a real possibility of the detenu coming out on bail, shows the non application of mind on the part of the detaining authority. Further, the detaining authority has not considered the second adverse case registered in Crime No.789 of 2015, on the file of the Villupuram Taluk Police Station, while passing the detention order. Thus, it is

clear that the detention order has been passed by the detaining authority without proper application of mind and appreciation of facts. Therefore, we are inclined to set aside the detention order.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 16.4.2016, 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.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

vvk

To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai-600 009.
- 2.The District Collector and
District Magistrate,
Villupuram District,
Villupuram.
- 3.The Superintendent
Central Prison
Cuddalore
- 4.The Joint Secretary to Government
Public Law and order
Fort St.George Chennai-9
- 5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.1124 of 2016

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