

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.1127 of 2016

Santhosh Kumar ... Petitioner

Vs

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

2.The Commissioner of Police,
Greater Chennai Police. ... 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 in No.367/BCDFGISSSV/2016, dated 30.3.2016 and quash the same and to direct the respondents to produce the detenu Santhoshkumar, aged about 31 years, son of Andavar, who is detained in the Central, Puzhal, Chennai, before this Court and set him at liberty.

For Petitioner : Mr.S.Senthilvel

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

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ORDER

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

This Habeas Corpus Petition has been filed by the detenu, namely, Santhoshkumar, aged about 31 years, son of Andavar to issue a Writ of Habeas Corpus, to call for the records, in No.367/BCDFGISSSV/2016, dated 30.3.2016, 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 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. 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 a bail application for M-7 Manali New Town Police Station Crime No.107 of 2016, before the Judicial Magistrate Court-II, Ponneri, in Crl.M.P.Nos.1492 of 2016 and a bail application has also been filed for the Crime No.108 of 2016, on the file of the same police station, before the Principal District and Sessions Court, Tiruvallur, in Crl.M.P.No.1184 of 2016 and that both the bail petitions are pending. It has been further stated in the order of detention that already, bail had been granted, in a similar case, by the Court of Principal Sessions, Chennai, in Crl.M.P.No.4371 of 2013, relating to Crime No.981 of 2013, on the file of the B-2 Esplanade Police Station. The learned counsel appearing for the petitioner has contended that no document relating to the similar case of the second adverse case, in Crime No.107 of 2016, 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, in Crime No.107 of 2016, 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 30.3.2016, 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.

vvk

Sd/-

Assistant Registrar

/TRUE COPY/

Sub-Assistant Registrar

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 Superintendent,
Central Prison, Puzhal, Chennai.
- 4.The Joint Secretary to Govt
Public [Law & Order] Secretariat,
Chennai-9.
- 5.The Public Prosecutor,
High Court, Madras.

सत्यमेव जयते

H.C.P.No.1127 of 2016

MG[CO]

MK:02/01/2017

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