

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.1131 OF 2016

K.Lakshmi

... Petitioner

Vs.

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

2.The Commissioner of Police
Chennai City.

... 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 connection with the order of detention passed by the second respondent 22.04.2016 in Memo No.459/BCDFGISSSV/2016 against the petitioner's son Kuppan @ Kuppuswamy, Male aged 22 years, S/o. Karuthakannan, who is confined at Centrl Prison, Puzhal II, Chennai and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.S.Senthilvel

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

O R D E R

[Order of the Court was made by M.JAICHANDREN, J.]

This Habeas Corpus Petition is filed by the mother of the detenu namely, Kuppan @ Kuppuswamy, aged 22 years, S/o. Karuthakannan, to issue a Writ of Habeas Corpus, to call for the records, in Detention Order No.459/BCDFGISSSV/2016 dated 22.04.2016, passed by the second respondent, detaining the detenu, under Section 3(1) of the Tamil Nadu Prevention of

Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982) branding him as a "Goonda", who is now detained in the Central Prison, Puzhal, Chennai and to quash the same and to direct the Respondents to produce him before this Court and set him at liberty forthwith.

2. We have heard the learned counsel appearing on behalf of the petitioner and 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, Mr.S.Senthilvel, 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 detention order, that the detenu has not moved any bail application for H-8 Thiruvottiyur Police Station Crime No.323/2016. However, in the detention order, it had been stated that the relatives are taking action to take him out on bail, in H-8 Thiruvottiyur Police Station, Crime No.323/2016, by filing bail applications 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 bail applications, on behalf of the detenu 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.

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 bail applications on behalf of the detenu, to take him out on bail, in the above said cases. 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 22.04.2016, 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

TK

To

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

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