

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.1135 OF 2016

Saravanan @ Murugan ... Petitioner/Detenu

Vs.

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

2.The Commissioner of Police
Greater Chennai
Chennai City.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS directing the detaining authority to produce the detainee, Mr.Saravanan @ Murugan, S/o.Velu, Male, Hindu, aged about 37 years and residing at No.14, Amman Street, Appasamy Street, Old Chetpet, Chennai - 600 031 presently detained in the Central Prison in Puzhal, Chennai, before this Court by calling for the records relating to the preventive detention order dated 11.03.2016 in Memo No.283/BCDFGISSSV/2016 which was passed by the second respondent and quash the same and set the detenu at liberty.

For Petitioner : Mr.K.Govindan

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

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O R D E R

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

This Habeas Corpus Petition is filed by the detenu namely, Saravanan @ Murugan, aged 37 years, Son of Velu, to issue a Writ of Habeas Corpus, to call for the records, in Detention Order BCDFGISSSV No.283/2016 dated 11.03.2016, 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.K.Govindan, 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 petition for R-4 Soundarapandiyanar Angadi Police Station Crime No.109/2016 so far. However, in the detention order, it had been stated that the relatives are taking action to take him out on bail, in R-4 Soundarapandiyanar Angadi Police Station Crime No.109/2016, 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 11.03.2016, 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 V)

//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 Saint George, Chennai - 9.
- 5.The Public Prosecutor
High Court of Madras.

+1cc to Mr.k.Govindan, Advocate Sr.67625

H.C.P.NO.1135 OF 2016

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srg 22/12/2016