

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2016

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN

and

THE HON'BLE MR.JUSTICE S.BASKARAN

H.C.P.No.1167 of 2016

Raja Kumari

.. Petitioner

Vs

1.The District Collector and District Magistrate,
of Ariyalur District,
O/o. The District Collector and
District Magistrate, Ariyalur District,
Ariyalur.

2.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai-600 009.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to call for the detention order passed by the first respondent, dated 12.5.2016 in Cr.M.P.No.08 of 2016 (TPDA 760/12.5.2016), and to set aside the same and to direct the respondents to produce the detenu Murugesan, aged about 52 years, son of Pichaipillai, presently, lodged in the Central Prison, Tiruchirappalli, before this court and set him at liberty.

For Petitioner : Mr.B.Maheswaran

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

ORDER

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

This Habeas Corpus Petition has been filed by the wife of the detenu, namely, Murugesan, aged about 52 years, son of Pichaipillai,

to issue a Writ of Habeas Corpus, to call for the records, in Cr.M.P.No.08/2016, dated 12.5.2016, passed by the first 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, Tiruchirappalli, 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. Though several grounds have been raised in this Habeas Corpus Petition, the learned counsel appearing on behalf of the petitioner has stated that in paragraph 5 of the grounds of detention, the Detaining Authority has stated that he is aware that the detenu is in remand in Keelapalur Police Station Crime No.140/2016 and that he had filed a bail application before the Principal District and Sessions Court, Ariyalur in Cr.M.P.No.301 of 2016, which had been dismissed, on 28.4.2016. It had been further stated that in a similar case, registered in Crime No.55/2012, on the file of the Meensuratty Police Station, bail had been granted by the Principal District and Sessions Court, Ariyalur, in Cr.M.P.No.452 of 2012, on 30.4.2012, to one Kumaravel, son of Thangaiyan, who was remanded, on 25.2.2012. The learned counsel appearing on behalf of the petitioner had stated that the detenu Murugesan had not filed any further bail application, in Crime No.140 of 2016, on the file of Keelapalur Police Station and that there is no real possibility of the detenu coming out on bail, in the near future. Therefore, the conclusion of the detaining authority that there is a real 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 clear that the detenu had already filed a bail application, in Keelapalur Police Station crime No.140 of 2016, before the Principal District and Sessions Court, Ariyalur, in Cr.M.P.No.301 of 2016, which had been dismissed, on 28.4.2016. It is further noted that the detenu had not filed any further bail application in the said case. 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. 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 12.5.2016, passed by the first 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 (CS-)

/TRUE COPY/

Sub-Assistant Registrar

To

1. The Secretary to Government,
State of Tamil Nadu
Home, Prohibition and Excise Department,
Fort St.George, Chennai-600 009.
- 2.The District Collector and District Magistrate,
of Ariyalur District,
O/o. The District Collector and District Magistrate,
Ariyalur District,
Ariyalur.
- 3.The Superintendent, Central Prison,
Tiruchirappalli.
- 4.The Joint Secretary to Government,
Public (Law & Order),
Fort St.George, Chennai-600 009.
- 5.The Public Prosecutor,
High Court, Madras.

WEB COPY

H.C.P.No.1167 of 2016

NM

MSI 28/12/2016