

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2016

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN
and
THE HON'BLE MR.JUSTICE S.BASKARAN

H.C.P.No.1201 of 2016

Vellankanni

... Petitioner/Mother
of the detenu

Vs

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

2.The Commissioner of Police,
Greater Chennai, Chennai.

... 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, dated 30.5.2016, in BCDFGISSSV No.518/2016, against the son of the petitioner, Vinothkumar, son of Ravikumar, aged about 28 years who is confined at the Central Prison, Puzhal, Chennai and to set aside the same and consequently, direct the respondents to produce the detenu before this court and to set him at liberty.

For Petitioner : Mr.K.S.Kaviarasu

For Respondents : Mr.V.M.R.Rajentran,
Additional Public Prosecutor

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

This Habeas Corpus Petition has been filed, by the mother of the detenu, namely, Vinothkumar, aged about 28 years, son of Ravikumar, praying that this Court may be pleased to issue a Writ of Habeas Corpus, to call for the records, in No.518/BCDFGISSSV/2016, dated 30.5.2016, 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, 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 and the learned Additional Public Prosecutor appearing on behalf of the State and we have also perused the records, carefully.

3. Though, several grounds had been raised by the petitioner, while challenging the impugned order of detention, dated 30.5.2016, the learned counsel, appearing on behalf of the petitioner, had submitted that, in paragraph No.4 of the grounds of detention, it has been stated that, in a similar case registered at T-14 Mangadu Police Station Crime No.693 of 2016, bail was granted by the Judicial Magistrate, Sriperumbudur, in CrI.M.P.No.517 of 2016. But, the papers relating to the said Crime No.693 of 2016 was not furnished to the detenu. Instead, the papers relating to Cr.M.P.No.515 of 2016, on the file of the Judicial Magistrate, Sriperumbudur, in respect of T-14 Mangadu Police Station Crime No.178 of 2016, had been furnished, erroneously. Hence, the detenu had been prevented from making an effective representation against the impugned order of detention. Thus, there is non application of mind on the part of the authority concerned in passing the detention order. Therefore, the detention order is vitiated and the same is liable to be quashed.

4. The said submission 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. A perusal of the records available would show that the papers relating to the similar case, registered in Crime No.693 of 2016, on the file of T.14 Mangadu Police Station, was not furnished to the detenu. But, the papers relating to some other case, in Cr.M.P.No.515 of 2016, on the file of the Judicial Magistrate, Sriperumbudur, in respect of T-14 Mangadu Police Station Crime No.178 of 2016 had been furnished, erroneously. Therefore, the detenu is prevented from making an effective representation against the order of detention. It clearly shows that there is non application of mind on the part of the detaining authority while passing the impugned order of detention. Therefore, we are inclined to set aside the impugned detention order.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 30.5.2016, 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

//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 Commissioner of Police,
Greater Chennai,
Chennai.
3. The Superintendent central Prison,
Puzhal, Chennai.
4. The Joint Secretary to Government,
Public (Law & Order) Fort Saint George,
Chennai-9
5. The Public Prosecutor,
High Court, Madras.

सत्यमेव जयते

H.C.P.No.1201 of 2016

pvs (CO)
rs (09/01/2017)

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