

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.12.2016

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN
and
THE HON'BLE MR.JUSTICE T.MATHIVANAN

H.C.P.No.1205 of 2016

Jayarani

.. Petitioner

Vs

- 1.The Secretary to 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.517/2016, against the son of the petitioner, detenu Anandan, aged about 29 years, son of Ramalingam, who is confined in the Central Prison, Puzhal, Chennai and to set aside the same and consequently, to direct the respondents to produce the detenu, before this Court and to set him at liberty.

For Petitioner : Mr.Senthilvel
for 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, Anandan, aged about 29 years, son of Ramalingam, praying that this Court may be pleased to issue a Writ of Habeas Corpus, to call for the records, in No.517/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, the detaining authority had stated that the detenu, Anandan, is in remand in T.6 Avadi Police Station Crime Nos.342/2016 and 725/2016, which are the 9th adverse case and the ground case, respectively and that the detenu had moved a bail application, in respect of Crime No.725 of 2016, before the Court of Principal District and Sessions Judge, Tiruvallur, in Crl.M.P.No.1682 of 2016, which is pending. It had been further stated in the order of detention that a bail application had also been filed, in respect of Crime No.342 of 2016, before the Court of Judicial Magistrate No.II, Poonamallee, in Crl.M.P.No.2282 of 2016, which is also pending. The detaining authority had further stated in the order of detention that in a similar case, registered in T-14 Mangadu Police Station Crime No.693 of 2016, bail had been granted, by the Judicial Magistrate, Sriperumbudur, in Crl.M.P.No.517 of 2016. The learned counsel appearing on behalf of the petitioner had submitted that the copy of the bail order, in respect of the said Crime No.693 of 2016, had not been furnished to the detenu. Hence, the detenu had been prevented 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 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. Considering the submissions made by the learned counsels appearing on behalf of the parties concerned, it is found that the detaining authority had relied on the similar case registered, in Crime No.693 of 2016, on the file of T-14 Mangadu Police Station, wherein bail had been granted to the accused concerned, by the Judicial Magistrate, Sriperumbudur, in

Cr1.M.P.No.517 of 2016. But, the copy of the bail order, relating to the said case, had not been furnished to the detenu. As such, we find that the non furnishing of the copy of the bail order would prejudice the detenu, in making an effective representation against the impugned order of detention, dated 30.5.2016. 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/-
Asst.Registrar

/true copy/

Sub Asst. 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 Public Prosecutor,
High Court, Madras.
- 4.The Superintendent, Central Prison,
Puzhal, Chennai
- 5.The Joint Secretary to Government,
(Law & Order), Fort, St. George, Chennai-9

H.C.P.No.1205 of 2016

kj(co)
ss(20/01/2017)