

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2016

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN
and
THE HON'BLE MR.JUSTICE P.VELMURUGAN

H.C.P.No.1245 of 2016

Pandisweri

..Petitioner

Vs.

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

2.The Commissioner of Police,
Chennai Police, Vepery, Chennai-600 007.

..Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to call for the entire records relating to the petitioner's husband's detention, vide detention order, dated 1.6.2016, on the file of the second respondent, made in proceedings BCDFGISSSV No.527/2016 and to quash the same as illegal and to direct the respondents herein to produce the detenu Balamurugan, son of Rasu, aged about 37 years, before this court and to set him at liberty from detention, now detained at the Central Prison, Puzhal, Chennai.

For Petitioner : Mr.C.C.Chellappan

For Respondents : Mr.V.M.R.Rajentran,
Addl. 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, Balamurugan, aged about 37 years, son of Rasu, to issue a Writ of Habeas Corpus, to call for the

records, in BCDFGISSSV No.527/2016, dated 1.6.2016, passed by the second 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, 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, 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 assailed the impugned detention order mainly on the ground that the detaining authority had stated, in paragraph No.4 of the order of detention, that the detenu Balamurugan is in remand in S-11 Tambaram Police Station Crime Nos.1332/2016, 1423/2016, 1568/2016 and 1596/2016 and S-7 Madipakkam Police Station crime Nos.109/2016, 415/2016 and 1187/2016 and S-10 Pallikaranai Police Station Crime Nos.1419/2016 and 1910/2016 and S-15 Selaiyur Police Station Crime No.1145 of 2016. It had been further stated that the detenu has moved a bail application, in the ground case in Crime No.1596 of 2016, on the file of S-11 Tambaram Police Station, before the Principal District and Sessions Judge, Chengalpattu, in M.P.No.1368 of 2016 and the same is pending. The detenu had filed bail petitions for S-11 Tambaram Police Station Crime Nos.1332/2016, 1423/2016 and 1568/2016, before the Court of Judicial Magistrate, Tambaram, Chennai, in M.P.Nos.3735/2016, 3736/2016 and 3733/2016, which had been dismissed. The detenu had not moved any bail application for S-7 Madipakkam Police station Crime Nos.109/2016, 415/2016 and 1187/2016 and for S-10 Pallikaranai Police Station Crime Nos.1419/2016 and 1910/2016 and S-15 Selaiyur Police Station Crime Nos.1145/2016, so far. The detaining authority had further stated that the relatives of the detenu are taking steps to take him out on bail, in S-11 Tambaram Police Station crime Nos.1332/2016, 1423/2016 and 1568/2016 by filing another bail applications and fresh bail applications for S-7 Madipakkam Police Station Crime Nos.109/2016, 415/2016 and 1187/2016 and S-10 Pallikaranai Police Station Crime Nos.1419/2016 and 1910/2016 and S-15 Selaiyur Police Station Crime No.1145/2016, 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 appearing on behalf of the respondents.

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 1.6.2016, 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.

vvk

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Secretary to Government,
The State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-600 009.
2. The Commissioner of Police,
Chennai Police, Vepery, Chennai-600 007.
3. The Superintendent, Central Prison, Puzhal, Chennai.
4. The Joint Secretary to Govt.
Public (L&O) Fort St. George,
Chennai 600 009.
5. The Public Prosecutor, High Court, Madras.

KR/19/1/17

H.C.P.No.1245 of 2016