

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2016

CORAM

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

H.C.P.No.1252 of 2016

Atchiamma .. Petitioner
Vs

- 1.The Principal Secretary to Government,
Home, Prohibition and Excise (XVI) Department,
Secretariat,
Chennai-600 009.
 - 2.The Commissioner of Police,
O/o The Commissioner of Police,
Salem District.
 - 3.The Inspector of Police,
Azhagapuram Police Station,
Dharmapuri District.
- ... 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 detention order in C.M.P.No.35/Goonda/Salem city/2016, dated 5.5.2016, on the file of the second respondent and to quash the same and to direct the respondents to produce the body and person of the petitioner's husband, by name Raman @ Sappathi @ Sappathi Raman, son of Krishnan, aged about 30 years, now confined at the Central Prison, Salem, before this Court and to set him at liberty forthwith.

For Petitioner : Mr.A.Raja Mohamed

For Respondents : Mr.V.M.R.Rajentran, APP

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, Raman @ Sappathi @ Sappathi Raman, aged

about 30 years, son of Krishnan, to issue a Writ of Habeas Corpus, to call for the records, in C.M.P.No.35/Goonda/Salem City/2016, dated 5.5.2016, 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, Salem, 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 assailed the impugned detention order mainly on the ground that the detaining authority had stated, in paragraph No.5 of the order of detention, that the detenu Raman @ Sappathi @ Sappathi Raman is in remand in Annadanapatty Police Station Crime No.16/2016, Sooramangalam Police Station Crime Nos.55/2016 and 56/2016 and Azhagapuram Police Station Crime No.32/2016 and no bail applications have been filed on behalf of the detenu, in respect of the said cases. Therefore, there is no real possibility of the detenu coming out on bail. Further, it had been stated in the order of detention that a relative of the detenu Raman @ Sappathi @ Sappathi Raman is taking efforts to move bail applications, on behalf of the detenu, in the above said cases. However, no statements had been recorded from the relative of the detenu with regard to the claim that he is 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 bail application had been moved on behalf of the detenu, in Annadanapatty Police Station Crime No.16/2016, Sooramangalam Police Station Crime Nos.55/2016 and 56/2016 and Azhagapuram Police Station Crime No.32/2016. Therefore, there is no real possibility of the detenu coming out on bail, in the near future. Further, in the order of detention, it had been stated that a relative of the detenu is taking efforts to move bail applications to take him out on bail, for the above said cases. However, no statements had been recorded from the relative concerned to substantiate the claim that he is 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 5.5.2016, 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,
The State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-600 009.
- 2.The Commissioner of Police,
O/o The Commissioner of Police,
Salem District.
- 3.The Inspector of Police,
Azhagapuram Police Station,
Dharmapuri District.
- 4.The Public Prosecutor,
High Court, Madras.
- 5.The superintendent, Central Prison,
Salem.
- 6.The Joint Secretary to Government
Public(Law & Order)
Fort St.George,
Chennai-9.

+1cc to Mr.A.Raja Mahamed, Advocate SR. No.73839/16

H.C.P.No.1252 of 2016

CA(CO)
GN(25/01/2017)