

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2016

CORAM

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

H.C.P.No.1255 of 2016

Annalakshmi

.. Petitioner

Vs

1.The State of Tamil Nadu,
rep by its Secretary,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai-600 009.

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

3.The Inspector of Police,
S-14, Peerkankaranai Police Station,
Peerkankaranai, Chennai.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, calling for the records of the detention order dated 3.6.2016 in detention order No.BCDFGISSSV No.538 of 2016, on the file of the second respondent herein, quash the same and to direct the respondents to produce the detenu Murugan, son of Pitchaiah, aged about 40 years, who is now confined in the Central Prison, Puzhal, before this Court and to set him at liberty.

For Petitioner : Mr.V.Sureshlal
for Mr.R.Thamaraiselvan

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, Murugan, aged about 40 years, son of Pitchaiah, to issue a Writ of Habeas Corpus, to call for the records, in BCDFGISSSV No.538/2016, dated 03.6.2016, 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 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 Murugan, who had been remanded in S-14 Peerankaranai Police Station Crime No.529/2016 and 700/2016 and S-11 Tambaram Police Station Crime No.831/2016, S-6 Sankar Nagar Police Station Crime No.560/2016 and S-15 Selaiyur Police Station Crime No.583/2016, had filed bail application in S-14 Peerankaranai Police Station Crime No.700 of 2016, before the Principal Sessions Judge, Chennai, in CrI.M.P.No.1471 of 2016 and the same is pending. It had been further stated that the detenu had not moved bail application for S-14 Peerankaranai Police Station Crime No.529/2016, S-11 Tambaram Police Station Crime No.831/2016, S-6 Sankar Nagar Police Station Crime No.560/2016 and S-15 Selaiyur Police Station Crime No.583/2016, so far. However, it had been stated that the relatives of the detenu are taking steps to take him out on bail, in S-14 Peerankaranai Police Station Crime No.529/2016, S-11 Tambaram Police Station Crime No.831/2016, S-6 Sankar Nagar Police Station Crime No.560/2016 and S-15 Selaiyur Police Station Crime No.583/2016, by filing bail application 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 a bail application, 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 3.6.2016, 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.

Sd/-
Assistant Registrar(CS VI)

//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,
Greater Chennai Police,
Chennai.
- 3.The Inspector of Police,
S-14, Peerankaranai Police Station,
Peerankaranai, Chennai.
- 4.The Superintendent, Central Prison, Puzhal, Chennai.
- 5.The Joint Secretary to Government
Public(Law & Order)
Fort St.George. Chennai-9
- 6.The Public Prosecutor,
High Court, Madras.

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