

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.1259 of 2016

Vasanthi

.. Petitioner

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 in his proceedings in BCDFGISSSV No.212/2016, dated 29.2.2016, against the son of the petitioner, detenu Samson, aged about 32 years, son of Alexander, who is confined at the Central Prison, Puzhal, Chennai and to set aside the same and to 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, Samson, aged about 32 years, son of Alexander, praying that this Court may be pleased to issue a Writ of Habeas

Corpus, to call for the records, in No.212/BCDFGISSSV/2016, dated 29.2.2016, 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.

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 29.2.2016, the learned counsel, appearing on behalf of the petitioner, had submitted that, in paragraph No.4 of the grounds of detention, it has been observed that in a similar case registered in E2 Royapettah Police Station Crime No.588/2014, bail was granted by the XVIII Metropolitan Magistrate Court, Saidapet, Chennai, in CrI.M.P.No.1611 of 2014. A copy of the said order had been furnished to the detenu, in page No.132 of the booklet supplied to him. However, the copy of the said order is illegible. 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. A perusal of the booklet supplied to the detenu, would show that the copy of the document relied upon and referred to by the detaining authority, in page No.132 of the booklet, is illegible. As such, we find that the furnishing of the illegible copy of the order passed by the XVIII Metropolitan Magistrate Court, Saidapet, Chennai, in CrI.M.P.No.1611 of 2014, relating to Crime No.588 of 2014, on the file of E2 Royapettah Police Station, would prejudice the detenu, in making an effective representation against the impugned order of detention, dated 29.2.2016. 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 29.2.2016, 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,
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 St.George, Chennai
- 5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.1259 of 2016

rsy(co)
pmk.25/1/2017

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