

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2016

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN
and
THE HON'BLE MR.JUSTICE S.BASKARAN

H.C.P.No.1264 of 2016

Selvi ...Petitioner/(Mother of the detenu)
Vs

1.The State of Tamilnadu,
rep by its Secretary to the Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai-600 009.

2.The Commissioner of Police,
Chennai Police,
Vepery, Chennai.7. ... 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 leading to the detention of the petitioner's son Chinnu @ Divakar, son of Rajendran, aged about 22 years, vide detention order dated 23.12.2015, on the file of the second respondent, made in Memo No.1274/BCDFGISSSV/2015 and quash the same and consequently, direct the respondents to produce the body and person of the said detenu before this court and to set him at liberty, from the Central Prison, Puzhal, Chennai.

For Petitioner : Mr.T.V.Somasundaram

For Respondents : Mr.V.M.R.Rajentran,
Additional Public Prosecutor

ORDER

[Order of the Court was made by S.BASKARAN, J.]

This Habeas Corpus Petition has been filed, by the mother of the detenu, namely, Chinnu @ Divakar, aged about 22 years, son of Rajendran, praying that this Court may be pleased

to issue a Writ of Habeas Corpus, to call for the records, in BCDFGISSSV No.1274/2015, dated 23.12.2015, 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. The learned counsel appearing for the petitioner contends that in the order of detention, the detaining authority has stated in paragraph No.4 that in a similar case registered at T-8 Muthapudupet Police Station Crime No.805/2014, bail was granted by this Court in Crl.O.P.No.1527 of 2015, by an order, dated 23.1.2015. A copy of the said bail order has been furnished to the detenu in page Nos.365 and 367 of the booklet. However, page Nos.365 and 367 are found illegible. Hence, the detenu had been prevented from making an effective representation against the impugned order of detention. It had been further pointed out by the learned counsel for the petitioner that there is a discrepancy in the vernacular version of the same. 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. On verification of the records, it is found that the order copy of the bail granted in a similar case, in Crl.O.P.No.1527 of 2015, dated 23.1.2015, which is found in page Nos.365 and 367 of the booklet, is illegible. Further, the other contention of the learned counsel for the petitioner about discrepancy in the vernacular version also appears to be correct. In such circumstances, the claim of the learned counsel for the petitioner that the detenu was prevented from making an effective representation against the impugned order of detention, is to be accepted. 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 23.12.2015, 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

To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai-600 009.
- 2.The Commissioner of Police,
Chennai Police,
Vepery, Chennai.7.
- 3.The Superintendent,
Central Prison,
Puzhal, Chennai.
- 4.The Joint secretary to Government,
Public (Law & Order),
Fort St. George, Chennai-9.
- 5.The Public Prosecutor,
High Court, Madras.

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