

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2016

CORAM

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

H.C.P.No.1266 of 2016

Sabeena Banu
Vs

Petitioner

- 1.The State,
rep by its Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai-600 009.
- 2.The District Collector and
District Magistrate of Vellore District,
Vellore District, Vellore. ... 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 on the file of the second respondent in detention order No.C3/D.O.No.28/2016, dated 25.5.2016 and to set aside the same and to direct the respondents to produce the detenu, namely Yusuf @ Pakara, aged about 38 years, son of Kuroshi, now kept in Central Prison, Vellore, before this Court and to set him at liberty.

For Petitioner : Mr.Durai Gunasekaran
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 wife of the detenu, namely, Yusuf @ Pakara, aged about 38 years, son of Kuroshi, praying that this Court may be pleased to issue a Writ of Habeas Corpus, to call for the records, in C3/D.O.No.28/2016, dated 25.5.2016, 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 "Drug Offender", in the Central Prison, Vellore, 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. Though, several grounds had been raised by the petitioner, while challenging the impugned order of detention, dated 25.5.2016, the learned counsel, appearing on behalf of the petitioner, had submitted that, in paragraph No.5 of the grounds of detention, the detaining authority had stated that as far as the ground case is concerned, in a similar case registered, by Vellore NIB CID Unit, in Crime No.16 of 2014, bail had been granted by the Court of Special Judge for E.C. Act Cases, Salem, in Crl.M.P.No.116 of 2014, on 22.4.2014, to the accused concerned. However, the bail order copy, relating to the said Crime No.16 of 2014, had not been furnished to the detenu. 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. Considering the submissions made by the learned counsels appearing on behalf of the parties concerned, it is found that the detaining authority had relied on the similar case registered, in Crime No.16 of 2014, by the Vellore NIB CID Unit, wherein bail had been granted to the accused concerned, by the Court of Special Judge for E.C. Act Cases, Salem, in Crl.M.P.No.116 of 2014, on 22.4.2014. But, the copy of the bail order, relating to the said case, had not been furnished to the detenu. As such, we find that the non furnishing of the copy of the bail order would prejudice the detenu, in making an effective representation against the impugned order of detention, dated 25.5.2016. 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 25.5.2016, 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,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai-600 009
2. The District Collector and
District Magistrate of Vellore District,
Vellore District, Vellore.
3. The Public Prosecutor,
High Court, Madras.
- 4 The Superintendent, Central Prison, Vellore
- 5 The Joint Secretary to Government
Public (Law & Order) Fort St. George,
Chennai 9

msm(CO)
md(24/01/2017)

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