

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.1280 of 2016

Jansirani

... Petitioner

Vs

1.The State of Tamil Nadu,
rep by its Secretary to the Government,
Home, Prohibition and Excise Department,
Chennai-600 009.

2.The Commissioner of Police,
Vepery, Chhennai-600 007.

... 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 relating to the detenu's detention order, passed by the second respondent, dated 4.6.2016, made in No.543/BCDFGISSSV/2016 and to set aside the same and to produce the detenu Balaji, aged about 45 years, son of Chandran, now detained in the Central Prison, Chennai, before this Court and to set him at liberty.

For Petitioner : Mr.C.C.Chellappan

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

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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, Balaji, aged about 45 years, son of Chandran, to issue a Writ of Habeas Corpus, to call for the records, in No.543/BCDFGISSSV/2016, dated 4.6.2016, 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 to 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 Balaji is in remand in T-2 Ambattur Estate Police Station Crime Nos.665/2016 and 668/2016 and he had moved a bail application, in respect of Crime No.665 of 2016, before the Court of Judicial Magistrate, at Ambattur, in Crl.M.P.No.2734 of 2016 and the same is pending. It had been further stated in the order of detention that the detenu had not moved any bail application, in respect of Crime No.668 of 2016, so far. Further, it had been stated that the relatives of the detenu are taking efforts to take him out on bail, in T-2 Ambattur Estate Police Station Crime No.668 of 2016, by filing bail application before the appropriate Court. However, 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 a bail application on behalf of the detenu, to take him out on bail, in T-2 Ambattur Estate Police Station Crime No.668/2016. 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 4.6.2016, 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/-
Asst.Registrar

/true copy/

Sub Asst. 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,
Vepery, Chhennai-600 007.
- 3.The Public Prosecutor,
High Court, Madras.
- 4.The Superintendent, Central Prison
Puzhal, Chennai.
- 5.The Joint Secretary to Government,
Public(Law & Order)
Fort Saint George, Chennai-9.

ss(co)
ss(12/01/2017)

H.C.P.No.1280 of 2016

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