

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.1284 of 2016

Ramijala .. Petitioner
Vs

- 1.The State of Tamilnadu,
represented by its Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai-600 009.
- 2.The Commissioner of Police,
Chennai Police,
Office of the Commissioner of Police,
(Goondas Section),
Vepery, Egmore,
Chennai-600 008. .. 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 detention order, dated 13.4.2016, passed by the second respondent, in BCDFGISSSV No.427 of 2016 and quash the same and to direct the respondents herein to produce the petitioner's son Syed Imam @ Imam, son of Syed Abis, aged about 30 years, who is presently confined at the Central Prison, Puzhal, Chennai, before this Court and to set him at liberty, forthwith.

For Petitioner : Mr.M.Murali
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, Syed Imam @ Imam, aged about 30 years, son of Syed Abis, praying that this Court may be pleased to issue a Writ of Habeas Corpus, to call for the records, in

BCDFGISSSV No.427/2016, dated 13.4.2016, 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, 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 13.4.2016, the learned counsel, appearing on behalf of the petitioner, had submitted that, in paragraph No.4 of the grounds of detention, the detaining authority had stated that in a similar case registered, in R-4 Soundarapandiyanar Angadi Police Station Crime No.1987/2014, bail had been granted by the Court of XVII Metropolitan Magistrate Court, Saidapet, Chennai, in CrI.M.P.No.202/2015. However, relevant papers relating to the said case, including the bail order copy, 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.1987 of 2014, on the file of R-4 Soundarapandiyanar Angadi Police Station, wherein bail had been granted to the accused concerned, by the Court of XVII Metropolitan Magistrate Court, Saidapet, Chennai, in CrI.M.P.No.202 of 2015. But, the relevant papers, including 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 13.4.2016. 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 13.4.2016, 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 Commissioner of Police,
Chennai Police,
Office of the Commissioner of Police,
(Goondas Section),
Vepery, Egmore,
Chennai-600 008.
3. The Public Prosecutor,
High Court, Madras.
- 4 The Superintendent
Central Prison, Puzhal, Chennai
(in duplicate for communication to detenu)
- 5 The Joint Secretary to Government
Public (Law & Orders)
Fort Saint George, Chennai 9

pk(CO)
md(20/01/2017)

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