

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.1289 of 2016

A.Aswini ... Petitioner

Vs

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 Commissioner of Police
(Goondas Section),
Vepery, Chennai-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 order of detention passed by the second respondent, in BCDFGISSSV No.303/2016, dated 15.3.2016 and to set aside the same and to direct the respondents to produce the detenu G.Anandhan, aged about 28 years, and presently detained in the Central Prison, Puzhal, Chennai, before this Court and to set him at liberty.

For Petitioner : Mr.R.Ganesh Kumar

For Respondents : Mr.V.M.R.Rajentren
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, Anandhan, aged about 28 years, son of Govindhan, to issue a Writ of Habeas Corpus, to call for the records, in No.303/BCDFGISSSV/2016, dated 15.3.2016, 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 contended that even though the detenu Anandhan is in remand, in the third adverse case, in Crime No.124 of 2016, on the file of C-1 Flower Bazaar Police Station, as seen from page No.36 of the booklet furnished to the detenu, the Detaining Authority had not stated anything about the said case, in the grounds of detention. According to the petitioner, the non consideration of the third adverse case by the detaining authority shows his non application of mind, while passing the detention order.

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 the Detaining Authority, while passing the detention order, had considered the first and second adverse cases, in Crime Nos.140/2016 and 141/2016 and the ground case, in Crime No.143 of 2016, on the file of B-2 Esplanade Police Station. However, on a perusal of the detention order, it is clear that the third adverse case, in Crime No.124 of 2016, on the file of C-1 Flower Bazaar Police Station, wherein the detenu had been remanded, was not considered by the Detaining Authority, while passing the order of detention. In such circumstances, the non consideration of the third adverse case by the Detaining Authority in the order of detention, has caused prejudice to the detenu. This shows the non application of mind on the part of the detaining authority, while 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 15.3.2016, 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

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To

- 1.The Secretary to Government,
State of Tamil Nadu
Home, Prohibition and Excise Department,
Fort St.George, Chennai-600 009.
- 2.The Commissioner of Police,
Chennai Police,
Office of Commissioner of Police
(Goondas Section),
Vepery, Chennai-600 007.
- 3.The Superintendent,
Central Prison,
Puzhal, Chennai.
- 4.The Joint Secretary to Government,
Public(Law & Order),
Fort Saint George, Chennai - 9.
- 5.The Public Prosecutor,
High Court, Madras.

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