

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.1313 of 2016

S.Sumathi .. Petitioner/Mother of the detenue

Vs

1. Inspector of Police (Law & Order),
V-3, J.J. Nagar Police Station,
Chennai.
- 2.The Commissioner of Police,
Greater Chennai, Chennai-600 008.
- 3.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Chennai-600 009. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, directing the respondents to produce the petitioner's son Koyambedu Saravanan, son of Suresh Kumar, detained vide, order BCDFGISSSV No.514/2016, dated 28.5.2016, now confined at the Puzhal Prison-II, Chennai and to produce the detenu before this court and to set him at liberty, forthwith, by calling for the records and setting aside the order of detention BCDFGISSSV No.514/2016, dated 28.5.2016, on the file of the second respondent.

For Petitioner : Mr.C.Arivazhagan
For Respondents : Mr.V.M.R.Rajentran, APP

WEB COPY
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, Koyambedu Saravanan, aged about 22 years, son of Sureshkumar, to issue a Writ of Habeas Corpus, to call for the records, in No.514/BCDFGISSSV/2016, dated

28.5.2016, 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 Koyambedu Saravanan is in remand in V-3 J.J.Nagar Police Station Crime Nos.919/2015, 23/2016 and 204/2016 and he had moved a bail application, in respect of Crime No.204/2016, before the Court of Vacation Judge, at Tiruvallur, in CrI.M.P.No.1745 of 2016, which had been dismissed, on 25.5.2016. It had been further stated that the detenu had not moved any bail application, in respect of Crime Nos.919/2015 and 23/2016, which are the second and fourth adverse cases, so far. However, it had been stated in the order of detention that the relatives of the detenu are taking action to take him out on bail, in V-3 J.J.Nagar Police Station Crime No.204/2016, by filing another bail application and in Crime Nos.919/2015 and 23/2016, by filing fresh bail applications, before the appropriate court. It had also been pointed out that 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, in respect of the second and fourth adverse cases, namely, in Crime Nos.919/2015 and 23/2016 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 bail applications on behalf of the detenu, to take him out on bail, in the second and fourth adverse cases, namely, in Crime

Nos.919/2015 and 23/2016, on the file of V-3 J.J.Nagar Police Station. 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 28.5.2016, 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,
The State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-600 009.
2. Inspector of Police (Law & Order),
V-3, J.J. Nagar Police Station,
Chennai.
- 3.The Commissioner of Police,
Greater Chennai, Chennai-600 008.
- 4.The Public Prosecutor,
High Court, Madras.
- 5 The Joint Secretary to Govt.,
Public (Law & Order) Chennai 9
- 6 The Superintendent, Central Prison,
Puzhal, Chennai

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