

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2016

CORAM

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

H.C.P.No.1334 of 2016

S.Nandhini

.. Petitioner

Vs

1. The Principal Secretary to the Government,
Home, Prohibition and Excise Department,
Chennai-600 009.
 2. The Commissioner of Police,
Greater Chennai,
Chennai.
 3. The Superintendent of Prison,
Central Prison,
Puzhal, Chennai.
 4. The State,
rep by the Inspector of Police,
T-12, Poonamallee Police Station,
Chennai.
- ... 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 in connection with the detention order passed by the second respondent in his proceedings in No.153/BCDFGISSSV/2016, dated 19.2.2016, and to set aside the same and to produce the petitioner's husband Umesh Kumar, aged about 25 years, son of Dasarathan, now confined in the Central Prison-II, Puzhal, Chennai, before this court and to set him at liberty, forthwith.

For Petitioner : Dr.G.Krishnamurthy

For Respondents : Mr.V.M.R.Rajentran,
Additional Public Prosecutor

- - - -

ORDER

This Habeas Corpus Petition has been filed, by the wife of the detenu, namely, Umeshkumar, aged about 25 years, son of Dasarathan, praying that this Court may be pleased to issue a Writ of Habeas Corpus, to call for the records, in No.153/BCDFGISSSV/2016, dated 19.2.2016, 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 19.2.2016, 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 T-8 Muthapudupet Police Station Crime No.805/2014, bail had been granted by this High Court, in CrI.O.P.No.1527 of 2015 and hence, there is a likelihood of the detenu coming out on bail, in the adverse cases and in the ground case. The learned counsel appearing on behalf of the petitioner had further submitted that a copy of the bail order granted, in CrI.O.P.No.1527 of 2015, vide order, dated 23.1.2015, relating to Crime No.805 of 2014, had been furnished to the detenu, in page No.203 of the booklet furnished to him. However, the said order is illegible. Further, the remand reports, relating to Crime Nos.794 of 2014 and 805 of 2014, on the file of T-8 Muthapudupet Police Station, furnished to the detenu, in page Nos.232 and 233 of the booklet, are incomplete in nature. 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. A perusal of the booklet supplied to the detenu, would show that the copy of the document relied upon and

referred to by the detaining authority, in page No.203 of the booklet, is illegible. As such, we find that the furnishing of the illegible copy of the order passed by the High Court, in CrI.O.P.No.1527 of 2015, would prejudice the detenu, in making an effective representation against the impugned order of detention, dated 19.2.2016. Apart from that, the remand reports furnished to the detenu, in page Nos.232 and 233 of the booklet, relating to Crime Nos.794 of 2014 and 805 of 2014, on the file of T-8 Muthapudupet Police Station, are incomplete in nature. 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 19.2.2016, 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.

s/d-
Assistant Registrar(CCC)

//True Copy//

Sub-Assistant Registrar

To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai-600 009
2. The Commissioner of Police,
Greater Chennai,
Chennai.
3. The Superintendent of Prison,
Central Prison,
Puzhal, Chennai.
4. The Joint Secretary to Government
Public(Law & Order) Fort.St.George, Chennai-9
5. The Inspector of Police,
T-12, Poonamallee Police Station,
Chennai.
6. The Public Prosecutor,
High Court, Madras

H.C.P.No.1334 of 2016

LRS (CO)
sp/31/1