

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.12.2016

CORAM

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

H.C.P.No.1356 of 2016

Arjun

.. Petitioner

Vs

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

2. The Commissioner of Police,
Chennai city Police,
Commissioner Office, 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 impugned order in No.529/BCDFGISSSV/2016, dated 1.6.2016, on the file of the second respondent and to set aside the same, as illegal and to direct the respondents to produce the detenu Naveen @ Naveenkumar, son of Raji, aged about 24 years, now confined in the Central Prison, Puzhal, Chennai, before this court and to set him at liberty.

For Petitioner : Mr. Ilayaraja Kandasamy

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

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ORDER

This Habeas Corpus Petition has been filed by the friend of the detenu, namely, Naveen @ Naveenkumar, aged about 24 years, son of Raji, to issue a Writ of Habeas Corpus, to call for the records, in No.529/BCDFGISSSV/2016, dated 1.6.2016, 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 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, Naveen @ Naveenkumar, is in remand, in E-5 Foreshore Estate Police Station Crime No.440 of 2016, E-1 Mylapore Police Station Crime Nos.898/2016 and 920/2016. The detenu had moved two bail applications, before the Principal Sessions Court, Chennai, in Crl.M.P.Nos.5373 of 2016 and 5372 of 2016, for E-1 Mylapore Police Station Crime Nos.898/2016 and 920/2016, which had been dismissed, on 20.4.2016. Thereafter, the detenu had moved two bail applications, before the Principal Sessions Court, Chennai, in Crl.M.P.Nos.7144/2016 and 7145/2016, for Crime Nos.898/2016 and 920/2016 and bail had been granted, on 1.6.2016. It had been further stated that the relatives of the detenu, Naveen @ Naveenkumar, are taking steps to take him out on bail, in E-5 Foreshore Estate Police Station Crime No.440 of 2016, by filing a bail application, 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 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 the above said case, in Crime No.440 of 2016, on the file of E-5 Foreshore Estate Police Station, which is the second adverse case. 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 1.6.2016, 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.

s/d-
Assistant Registrar (CS-III)

//True Copy//

Sub-Assistant Registrar

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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,
Chennai city Police,
Commissioner Office, Vepery,
Chennai-600 007.
3. The Public Prosecutor,
High Court, Madras.
4. The Superiendent central prison
Puzhal, chennai
5. The Joint secretary to Government,
Public (L &O)
Fort. ST. George
chennai-9.

सत्यमेव जयते

H.C.P.No.1356 of 2016

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