

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.1358 of 2016

Marriyammal

.. Petitioner

Vs

1. The State of Tamil Nadu,
rep by its Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai-9.
2. The Commissioner of Police,
Greater Chennai,
Vepery,
Chennai-7.

.. 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 passed by the second respondent, dated 16.6.2016, in Memo No.566/BCDFGISSSV/2016 and to quash the same and to direct the respondents to produce the body and person of the detenu, Aravindhakumar, son of Karunakaran, aged about 32 years, detained in the Central Prison, Puzhal, Chennai, before this Court and to set him at liberty.

For Petitioner : Mr.L.Vinothkumar

For Respondents : Mr.V.M.R.Rajentren
Additional Public Prosecutor

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ORDER

This Habeas Corpus Petition has been filed by the wife of the detenu, namely, Aravindhakumar, aged about 32 years, son of Karunakaran, to issue a Writ of Habeas Corpus, to call for the records, in No.566/BCDFGISSSV/2016, dated 16.6.2016, 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 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 submitted that the detaining authority had stated in the grounds of detention that the detenu, Aravindhakumar, had been remanded, in M-7 Manali New Town Police Station Crime Nos.6/2016, 86/2016, 341/2016 and 344 of 2016. The detenu had moved a bail application, for Crime No.341/2016, before the Court of Principal District and Sessions Judge, Tiruvallur, in CrI.M.P.No.1710 of 2016, which had been dismissed. Thereafter, the detenu had moved another bail application, for Crime No.341/2016, before the High Court, in CrI.O.P.No.11888/2016, which is pending. It had been further stated, in the grounds of detention, that the detenu had also moved bail applications, for Crime Nos.6/2016, 86/2016 and 344/2016, before the Court of Judicial Magistrate-II, Ponneri, in C.M.P.Nos.3102/2016, 3104/2016 and 3103/2016, respectively, which are pending. It had been further stated that, in a similar case, registered in M-5 Ennore Police Station Crime Nos.1017/2013, under Sections 341, 294(b), 336, 427, 392 I.P.C., read with Section 397 and 506(ii) I.P.C., bail had been granted, by the Court of Principal and District Sessions, Tiruvallur, to the accused concerned, in CrI.M.P.No.1171 of 2013. The learned counsel appearing on behalf of the petitioner had submitted that the similar case, relied on by the detaining authority, is similar to the ground case and the fifth adverse case. However, no similar case had been referred to by the detaining authority, in respect of the third and the fourth adverse cases, namely, Crime Nos.6/2016 and 86/2016, respectively. Thus, there is non application of mind on the part of the detaining authority, in 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 relied on a similar case, registered in M-5 Ennore Police Station Crime No.1017/2013, wherein bail had been granted to the accused concerned, by the Court of Principal District and Sessions, Tiruvallur, in CrI.M.P.No.1171 of 2013. However, the

said case, relied on by the detaining authority, is similar to the ground case only and that, no similar case had been relied on by the detaining authority, in respect of M-7 Manali New Town Police Station Crime Nos.6/2016 and 86/2016, which are the third and the fourth adverse cases. 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 16.6.2016, 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

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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,
Greater Chennai,
Vepery,
Chennai-7.
3. The Superintendent, Central Prison, Puzhal, Chennai
4. The Joint Secretary to Government
Public (Law & Order)
Fort. St. George, Chennai-9
5. The Public Prosecutor,
High Court, Madras.

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