

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2016

CORAM

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

H.C.P.No.1364 of 2016

Indhira

.. Petitioner

Vs

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai-600 009.

2.The Commissioner of Police,
Office of the Commissioner of Police,
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 detention order, dated 8.6.2016, made in detention order memo No.559/BCDFGISSSV/2016, passed by the second respondent herein, quash the same and to direct the respondents to produce the body of the detenu Vignesh, aged 25 yearss, son of Angamuthu, who had been detained in the Central Prison, Puzhal, at Chennai, before this Court and to set him at liberty.

For Petitioner : Mr.K.Balakumar

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

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, Vignesh, aged about 25 years, son of Angamuthu, to issue a Writ of Habeas Corpus, to call for the records, in No.559/BCDFGISSSV/2016, dated 8.6.2016, 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 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 Vignesh is in remand in K-10 Koyambedu Police Station Crime Nos.43/2016 and 490/2016 and the detenu had moved a bail application, in respect of Crime No.490/2016, which is the ground case, before the Court of Principal Sessions Judge, Chennai, in CrI.M.P.No.7238 of 2016, which had been dismissed, on 6.6.2016. It had been further stated that the detenu had not moved any bail application, in respect of Crime No.43/2016, which is the first adverse case, so far. However, it had been stated in the grounds of detention that the relatives of the detenu are taking steps to take him out on bail, in K-10 Koyambedu Police Station Crime No.490/2016, by filing another bail application and by filing a fresh bail application, in respect of Crime No.43/2016, 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 any bail application, on behalf of the detenu, in the above said cases 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 another bail application, in Crime No.490 of 2016, on the file of K-10 Koyambedu Police Station and a fresh bail application, in Crime

No.43/2016, on the file of K10 Koyambedu Police Station, on behalf of the detenu, to take him out on bail, in the above said cases. 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 8.6.2016, 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.

[M.J.,J.] [T.M.,J.]
21.12.2016

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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,
Office of the Commissioner of Police,
Vepery, Chennai-600 007.
- 3.The Public Prosecutor,
High Court, Madras.

M.JAICHANDREN,J.
AND
T.MATHIVANAN, J.

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H.C.P.No.1364 of 2016

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