

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.1370 of 2016

Govindammal

...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,
Greater Chennai,
Vepery, Chennai.

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, calling for the records, relating to the proceedings of the second respondent herein in 416/BCDFGISSSV/2016, dated 12.04.2016 and to quash the same and to produce the detenu Shankar, S/o.Selvaraj, aged about 40 years, now detained in the Central Prison-II, Puzhal, before this Court and to set him at liberty.

For Petitioner : Mr.C.C.Chellappan

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, Shankar, aged 40 years, son of Selvaraj, to issue a Writ of Habeas Corpus, to call for the

records, in 416/BCDFGISSSV/2016, dated 12.04.2016, 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, 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 in the grounds of detention, the detaining authority had stated that he was aware that the detenu, namely, Shankar is in remand in K-2, Ayanavaram Police Station, Crime Nos.764/2013, 774/2014, 2416/2015 and 490/2016 and he moved a bail application before the Principal Sessions Judge, Chennai in CrI.M.P.No.5068 of 2016 for K2 Ayanavaram Police Station in Cr.No.490 of 2016 and the same is pending. The sponsoring authority had also stated that the relatives of the detenu are taking action in Crime Nos.764/2013, 774/2014 and 2416 of 2015 by filing 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 bail applications, 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 bail applications on behalf of the detenu, to take him out on bail, in Crime Nos.764/2013, 774/2014, 2416/2015 and 490/2016, on the file of K2, Ayanavaram Police Station, which are the adverse cases and ground case, respectively. 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 12.04.2016, 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

gpa

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

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H.C.P.No. 1370 of 2016

ACA (CO)
RS (13/02/2017)