

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.1392 of 2016

Ammu .. Petitioner

Vs

- 1.The Government of Tamil Nadu,
rep by its Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-600 009.
- 2.The Commissioner of Police,
Chennai 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, calling for the records relating to the proceedings of the second respondent in BCDFGISSSV No.564/2016, dated 14.6.2016, against the detenu Subramani @ Ganja Subramani, son of Pakkiri, aged about 42 years, and to quash the same and consequently, to direct the respondents herein to produce the detenu, detained in the Central Prison, Puzhal, Chennai, before this Court and to set him at liberty.

For Petitioner : Mr.P.Anbazhagan

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 daughter of the detenu, namely, Subramani @ Ganja Subramani, aged about 42 years, son of Pakkiri, to issue a Writ of Habeas Corpus, to call for the records, in No.564/BCDFGISSSV/2016, dated 14.6.2016, 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 "Bootlegger", 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, Subramani @ Ganja Subramani, had been remanded, in E-4 Abiramapuram Police Station Crime No.923/2016, which is a ground case. The detenu had filed a bail application, for the said crime No.923/2016, before the Principal Sessions Judge, Chennai, in CrI.M.P.No.7231 of 2016, which had been dismissed, on 8.6.2016. It had been stated in the order of detention that the relatives of the detenu are taking action to file a bail application, in E-4 Abiramapuram Police Station Crime No.923 of 2016, before the appropriate court. However, it had been pointed out by the learned counsel appearing on behalf of the petitioner 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, in the ground case, in Crime No.923 of 2016 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 E-4 Abiramapuram Police Station Crime No.923 of 2016, which is a ground 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 14.6.2016, 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.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vvk

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 Police,
Vepery,
Chennai-600 007.
- 3.The Public Prosecutor,
High Court, Madras.
- 4 The Superintendent, Central Prison, Puzhal, Chennai
- 5 The Joint Secretry to Govt., Pathi (LTO)
Fort St. George, Chennai 9

svi(CO)
md(19/01/2017)

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