

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.05.2016

CORAM

THE HON'BLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

H.C.P.No.14 of 2016

N.Sivakumar

... Petitioner/Brother in law
of detenu

v.

1.The Principal Secretary to the Government
Home Prohibition and Excise Department
Secretariat, Chennai 600 009.

2.The District Magistrate and
District Collector
Tiruppur District.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, to call for the records in connection with the order of Detention passed by the 2nd respondent dated 19.12.2015 in Cr.M.P.No.21, Goonda/2015 passed against petitioner's uncle Imran, Son of Abdulkuthush, aged about 27 years, who is confined at Central Prison, Coimbatore, and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.V.Paarthiban

For Respondents : Mr.M.Maharaja
Addl. Public Prosecutor

ORDER

[Order of the Court was made by K.KALYANASUNDARAM, J.]

This Habeas Corpus Petition has been filed by the brother-in-law of the detenu, namely, Imran, S/o. Abdulkuthus, aged about 27 years to issue a Writ of Habeas Corpus, calling for the records relating to the impugned order passed by the 2nd respondent in Cr.M.P.No.21/Goonda/2015 dated 19.12.2015, detaining him under Section 3(1) of the Tamil Nadu Prevention of

Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14/1982), branding him as a "Goonda" as contemplated u/s 2(f) of the Tamil Nadu Act 14 of 1982, and to quash the same, produce him before this Court and to set him at liberty.

2. Though many grounds have been raised in the petition, Mr.V.Paarthiban, the learned counsel appearing for the petitioner, confines his argument only in respect of non-application of mind on the part of the detaining authority in passing the order of detention.

3. Learned counsel appearing for the petitioner submitted that the detenu is entitled to make representation to the Detaining Authority, the State Government and the Advisory Board, but in the order of detention it is only mentioned that the detenu can make representation to the District Collector, the Detaining Authority and the Advisory Board. The Detention Order does not show that the detenu can make a representation to the State Government. Therefore, it is submitted that this is indicative of total non-application of mind on the part of the detaining authority and the same vitiates the detention order and is unsustainable in law.

4. Per contra, the learned Additional Public Prosecutor would submit that the order of detention has been passed on cogent and sufficient materials and the same cannot be interfered with at the instance of the petitioner. Therefore, he submits that the Habeas Corpus Petition does not merit any consideration and the same is liable to be dismissed.

5. We have heard the learned counsel for both sides with regard to the facts.

6. Though the detenu is entitled to make a representation to the Detaining Authority, the State Government and the Advisory Board, in the order of detention it is only mentioned that the detenu can make representation to the District Collector, the Detaining Authority and the Advisory Board and it does not show that the detenu can make a representation to the State Government. Hence, the detention order is liable to be set aside.

7. In the light of the above facts, we have no hesitation in quashing the order of detention on the above mentioned ground.

8. Accordingly, the Habeas Corpus Petition is allowed and

the impugned detention order passed by the 2nd 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(CS-V)

//True Copy//

Sub Assistant Registrar

gms

To

1.The Principal Secretary to the Government
Home Prohibition and Excise Department
Secretariat, Chennai 600 009.

2.The District Magistrate and
District Collector
Tiruppur District.

3.The Superintendent,
Central Prison, Coimbatore.

4.The Joint Secretary to Government
Public (Law & Order),
Fort St.George, Chennai 9.

5.The Public Prosecutor,
Madras High Court, Chennai.

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H.C.P.No.14 of 2016

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