

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.1410 of 2016

Panneerselvam

.. Petitioner/Father of
Detenu

Vs

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-600 009.
2. The District Collector and District Magistrate,
Kancheepuram District,
Kancheepuram. .. 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, in connection with the order of detention, passed by the second respondent, dated 1.7.2016, in BCDFGISSSV No.41/2016, against the detenu, Kanakaraj, aged about 24 years, son of Panneerselvam, confined in the Central Prison, Puzhal, Chennai and to set aside the same and consequently, to direct the respondents to produce the detenu, before this court and to set him at liberty.

For Petitioner : Mr.R.Velmurugan

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

ORDER

[Order of the Court was made by M.JAICHANDREN, J.]

This Habeas Corpus Petition has been filed by the father of the detenu, namely, Kanakaraj, aged about 24 years, son of Panneerselvam, to issue a Writ of Habeas Corpus, to call for the records, in BCDFGISSSV No.41/2016, dated 1.7.2016, 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.5 of the order of detention, that the detenu, Kanakaraj, had been remanded and lodged, in the Central Prison, Puzhal, Chennai and he had filed a bail application, before the Principal District Sessions Court, Chengalpattu, relating to Crime No.373 of 2016, on the file of Guduvanchery Police Station, on 2.5.2016, in Crl.M.P.No.1283 of 2016, which is pending. However, it is noted from the records available before this Court that the said Crl.M.P.No.1283 of 2016, had been dismissed by the Principal District and Sessions Court, Chengalpattu (FAC), on 10.6.2016, itself. The impugned detention order had been passed, on 1.7.2016. Thus, there is non application of mind on the part of the detaining authority in passing the order of detention.

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 mentioned in the grounds of detention that a bail application had been filed, before the Principal District and Sessions Court, Chengalpattu, relating to Crime No.373 of 2016, which is the ground case, in Crl.M.P.No.1283 of 2016, on 2.5.2016 and the same is pending. However, a perusal of the records would show that the said bail application had been dismissed, by the learned Principal District and Sessions Judge, Chengalpattu (FAC), on 10.6.2016. Thus, it is clear that on the date of passing of the impugned order of detention, dated 1.7.2016, the said bail application had been dismissed. 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 1.7.2016, 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/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

vvk

To

- 1.The Secretary to Government,
State of Tamil Nadu
Home, Prohibition and Excise Department,
Fort St.George, Chennai-600 009.
- 2.The District Collector and District Magistrate,
Kancheepuram District,
Kancheepuram.
- 3.The Superintendent,
Central Prison,
Puzhal.
- 4.The Joint Secretary to Government Public (Law & Order),
Fort Saint, George,
Chennai-9
- 5.The Public Prosecutor,
High Court, Madras.

NRI (CO)
GN(20/01/2017)

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H.C.P.No.1410 of 2016

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