

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.1420 of 2016

Geetha .. Petitioner

Vs

1.The State of Tamil Nadu,
rep by its Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-600 009.

2.The Commissioner of Police,
Greater Chennai,
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 of the detention, made in Memo No.490/BCDFGISSSV/2016, dated 28.4.2016, passed by the second respondent and to set aside the same and to direct the respondents to produce the detenu, Selvam @ Kottuva Selvam, son of Sridhar, aged about 34 years, detained in the Central Prison-II, Puzhal, Chennai, before this court and to set him at liberty.

For Petitioner : Mr.K.Kannan

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 wife of the detenu, namely, Selvam @ Kottuva Selvam, aged about 34 years, son of Sridhar, to issue a Writ of Habeas Corpus, to call for the records, in No.490/BCDFGISSSV/2016, dated 28.4.2016, 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, Selvam @ Kottuva Selvam, had been remanded in M-8 Sathangadu Police Station Crime Nos.371/2016 and 384/2016, which are the fourth adverse case and the ground case, respectively. The detenu had moved a bail application, for the ground case, in Crime No.384 of 2016, before the Court of Principal District and Sessions Judge, Tiruvallur, in Crl.M.P.No.1485 of 2016, which is pending. It had been stated in the order of detention that the detenu had not moved any bail application, for the fourth adverse case, in Crime No.371 of 2016, so far. The detaining authority had further stated in the order of detention that the relatives of the detenu are taking action to take him out on bail, in Crime No.371 of 2016, by filing a bail application, 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 fourth adverse case, in Crime No.371 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 M-8 Sathangadu Police Station Crime No.371 of 2016, which is the fourth adverse 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 28.4.2016, 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

/true copy/

Sub Asst. 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,
Greater Chennai,
Vepery, Chennai-600 007.
- 3.The Public Prosecutor,
High Court, Madras.
- 4.The superintendent, Central Prison,
Puzhal, Chennai
- 5.The Joint Secretary to Government,
Public(Law & Order), Fort st. George
chennai-9.

सत्यमेव जयते

H.C.P.No.1420 of 2016

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