

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.1469 of 2016

Saroja Petitioner
vs

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Fort St. George,
Chennai-600 009.

2.The District Magistrate and
District Collector,
Namakkal District,
Namakkal.

.... 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 relating to the petitioner's husband detention, vide detention order, dated 24.6.2016, on the file of the second respondent herein, made in proceedings Memo C.M.P.No.18/Bootlegger/2016/M1, quash the same, as illegal and consequently to direct the respondents herein to produce the petitioner's husband Anand @ Anandakumar, son of Vellaiyan, aged about 31 years, before this Court and to set him at liberty, from the Central Prison, Salem.

For Petitioner : Mr.W.Camyles Gandhi

For Respondents : Mr.V.M.R.Rajentran,
Additional Public Prosecutor

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, Anand @ Anandakumar, aged about 31 years, son of Vellaiyan, praying that this Court may be pleased to

issue a Writ of Habeas Corpus, to call for the records, in C.M.P.No.18/Bootlegger/2016/M1, dated 24.6.2016, passed by the second respondent, detaining the detenu under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, 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, Salem, 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 and the learned Additional Public Prosecutor appearing on behalf of the State and we have also perused the records, carefully.

3. Though, several grounds had been raised by the petitioner, while challenging the impugned order of detention, dated 24.6.2016, the learned counsel, appearing on behalf of the petitioner, had submitted that, in paragraph No.4 of the grounds of detention, the detaining authority had stated that the detenu, Anand @ Anandakumar, had been remanded and lodged in the Central Prison, Salem, in Rasipuram Prohibition Enforcement Wing Crime No.307 of 2016, which is the ground case. He had filed a bail application, before the Principal District Sessions Court, Namakkal, in C.M.P.No.667 of 2016, which had been dismissed, on 23.6.2016. It had been further stated in the order of detention that in a similar case, registered in Namakkal Prohibition Enforcement Wing Crime No.224/2016, bail had been granted to the accused concerned, in C.M.P.No.481 of 2016, vide order, dated 26.4.2016, by the Principal District and Sessions Court, Namakkal. However, the translated version of the bail order copy, relating to the said Crime No.224 of 2016, had not been furnished to the detenu. Hence, the detenu had been prevented from making an effective representation against the impugned order of detention. Thus, the detention order is vitiated and the same is liable to be quashed.

4. The said submission 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. Considering the submissions made by the learned counsels appearing on behalf of the parties concerned, it is found that the detaining authority had relied on the similar case registered, in Crime No.224 of 2016, on the file of Namakkal Prohibition Enforcement Wing, wherein bail had been granted to the accused concerned, by the Principal District and

Sessions Judge, Namakkal, in C.M.P.No.481 of 2016, on 26.4.2016. But, the translated copy of the bail order, relating to the said case, had not been furnished to the detenu. As such, we find that the non furnishing of the translated version of the bail order would prejudice the detenu, in making an effective representation against the impugned order of detention, dated 24.6.2016. Therefore, we are inclined to set aside the impugned detention order.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 24.6.2016, 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(CCC)

//True Copy//

Sub Assistant Registrar

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To

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

H.C.P.No.1469 of 2016

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