

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.1485 of 2016

Rizwan Parveen

.. Petitioner

Vs

1. The State of Tamil Nadu,
rep by the Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai-600 009.
 2. The Commissioner of Police,
Chennai City Police,
Commissioner Office,
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 impugned order in No.608/BCDFGISSSV/2016, dated 29.6.2016, on the file of the second respondent and to set aside the same, as illegal and to direct the respondents to produce the detenu Noorul Ameen @ Nooru, son of Sikkander Basha, aged about 38 years, now confined in the Central Prison, Puzhal, Chennai, before this Court and to set him at liberty.

For Petitioner : Mr.Ilayaraja Kandasamy

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, Noorul Ameen @ Nooru, aged about 38 years, son of Sikkander Basha, to issue a Writ of Habeas Corpus,

to call for the records, in No.608/BCDFGIISSSV/2016, dated 29.6.2016, 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 "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, Noorul Ameen @ Nooru, is in remand, in G-1 Vepery Police Station Crime No.384/2016, E.1 Mylapore Police Station Crime No.1033/2016 and D.5 Marina Police Station Crime Nos.629/2016 and 631/2016. He had moved a bail application, before the Sessions Court, Chennai, in Crl.M.P.No.9166 of 2016, for D.5 Marina Police Station Crime No.631/2016, which is the ground case, and the bail had been granted, on 27.6.2016. It had been further stated in the grounds of detention that the relatives of the detenu are taking action to file bail applications, in G-1 Vepery Police Station Crime No.384/2016, E-1 Mylapore Police Station Crime No.1033/2016 and D.5 Marina Police Station Crime No.629/2016, by filing bail applications, before the appropriate court. However, it had also 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 bail applications, on behalf of the detenu, in the above said adverse cases 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 bail applications on behalf of the detenu, to take him out on bail, in G-1 Vepery Police Station Crime No.384/2016, E-1 Mylapore Police Station Crime No.1033/2016 and D.5 Marina Police Station Crime No.629/2016, which are the adverse cases. 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 29.6.2016, 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 City Police,
Commissioner Office, 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 Saint George,
Chennai-9

CP(CO)
RS(19/01/2017)

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