

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.1496 of 2016

Arulmani .. Petitioner/co-brother of
the detenu

Vs

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Government of Tamil Nadu,
Fort St. George,
Chennai-600 009.
2. The District Magistrate and
District Collector,
Salem District,
Salem. ... 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 proceedings of the second respondent, pertaining to the detention order, made in C.M.P.No.13/B.L.A./C2/2016, dated 4.7.2016 and to quash the same and to direct the respondents to produce the detenu, Prasanth, son of Selvam, aged about 25 years, detained in the Central Prison, Salem, before this Court and to set him at liberty.

For Petitioner : Mr.D.Veerasekaran

For Respondents : Mr.V.M.R.Rajentran, APP

ORDER

This Habeas Corpus Petition has been filed by the co-brother of the detenu, namely, Prasanth, aged about 25 years, son of Selvam, to issue a Writ of Habeas Corpus, to call for the records, in C.M.P.No.13/B.L.A./C2/2016, dated 4.7.2016, 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 "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, as well as the learned Additional Public Prosecutor appearing for the State and we have also perused the records, carefully.

3. The learned counsel appearing on behalf of the petitioner had submitted that there is a delay in submission of the contraband seized, on 5.6.2016, in the Court, relating to the case, in Crime No.272 of 2016, on the file of Attur Prohibition Enforcement Wing. It is clear from page No.30 of the booklet furnished to the detenu that the property was seized on 5.6.2016, as per the property list. But, the same was received, by the Judicial Magistrate concerned, on 8.6.2016. Therefore, the learned counsel appearing on behalf of the petitioner had contended that the delay in submission of the contraband in the Court would cause prejudice 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 the contraband, relating to the case, in Crime No.272 of 2016, on the file of the Attur Prohibition Enforcement Wing, was seized on 5.6.2016. But, the same was received by the Court concerned, only on 8.6.2016, as found in the booklet furnished to the detenu, which is the copy of the list of property sent to the Magistrate. The said fact is also not refuted by the learned Additional Public Prosecutor appearing on behalf of the respondents. In such circumstances, as rightly pointed out by the learned counsel for the petitioner, the delay in producing the property before the concerned Judicial Magistrate Court, would give scope for manipulating the contraband seized and this delay would cause prejudice to the detenu. Therefore, we are inclined to set aside the detention order.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 4.7.2016, 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.

s/d-
Assistant Registrar (CS-III)

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 District Magistrate and
District Collector,
Salem District,
Salem.
3. The Public Prosecutor,
High Court, Madras.
4. The Superiendent, central prison, salem
5. The Joint Secretary to Government
public (Law & order) Fort.St. George
Chennai-9

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H.C.P.No.1496 of 2016

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