

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.05.2016

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THE HON'BLE MR.JUSTICE G.CHOCKALINGAM
and
THE HON'BLE MR.JUSTICE M.V.MURALIDARAN

H.C.P.No. 178 of 2016

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... Petitioner

Vs.

1. The Secretary to Government
Home, Prohibition and Excise Department
Secretariat, Chennai -600 009
2. The District Collector and District Magistrate
Office of the District Collector and District
Magistrate, Tiruppur District, Tiruppur
3. The Superintendent of Prison
Coimbatore Central Prison,
Coimbatore District

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, to call for the entire records connected with the detention order of the respondent No.2 in C.M.P.No.25/Goonda/2015 dated 30.12.2015 and quash the same and direct the respondents to produce the detenu namely Pandi @ Sivapandi, son of Manohar, aged about 28 years detained in Coimbatore Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani

For Respondents : Mr.M.Maharaja
Additional Public Prosecutor

O R D E R

[Order of the Court was made by G.CHOCKALINGAM, J.]

The petitioner, who is the mother of the detenu, Pandi@Sivapandi, Son of Manohar, aged about 28 years, has come forward with this petition challenging the detention order passed by the 2nd respondent dated 30.12.2016 against his husband branding him as a "GOONDA" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum Grabbers and Video Pirates Act, 1982 [Tamil Nadu Act 14 of 1982].

2. Even though the learned counsel for the petitioner raised many grounds in assailing the impugned order of detention in the petition, he focused his argument on the ground that in Cr.No.497 of 2015, the bail applications filed by the detenu were dismissed by the learned Magistrates concerned and thereafter, no fresh application was filed by him seeking bail. When that be so, the satisfaction arrived at by the detaining authority, that there is likelihood of the detenu coming out on bail is absolutely baseless. This is indicative of the non-application of mind on the part of the Detaining Authority and hence, submitted that the detention order is vitiated and the same is liable to be quashed.

3. Per contra, the learned Additional Public Prosecutor would submit that the order of detention has been passed on cogent and sufficient materials and the same cannot be interfered with at the instance of the petitioner. Therefore, he submits that the Habeas Corpus Petition does not merit any consideration and the same is liable to be dismissed.

4. We have heard the learned counsel for both sides with regard to the facts.

5. As rightly pointed out by the learned counsel for the petitioner, from paragraph 3 (v) of the detention order, it is crystal clear that the detenu had not filed any application seeking bail, after dismissal of the earlier applications. When that be so, it is not explained to the Court as to how the detaining authority has come to the conclusion that there was real possibility of the detenu coming out on bail. This shows the predetermined mind of the detaining authority. In such view of the matter, the detention order is liable to be quashed.

6. Accordingly, the habeas corpus petition is allowed and the detention order dated 30.12.2015, passed by the 2nd

respondent is quashed. The detenu is directed to be set at liberty, forthwith, unless his presence is required in connection with any other case.

Sd/-
Vacation Officer

//True Copy//

Sub Assistant Registrar

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To

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

H.C.P.No. 178 of 2016

RSY(CO)
CA(31/05/2016)

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