

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.05.2016

CORAM

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

H.C.P.No. 226 of 2016

Angappan

.. Petitioner

vs.

1. The State of Tamil Nadu
Rep.by its Secretary
Home, Prohibition and Excise Department
Fort St.George, Chennai -600 009

2. The Commissioner of Police
The Commissioner Office
Vepery, Chennai -600 007

... Respondents

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 detention order in Memo No.BCDFGISSSV No.09/2016, dated 20.01.2016 passed by the second respondent under Tamil Nadu Act 14 of 1982 and set aside the same and direct the respondent to produce the petitioner's son NARENDHARAN S/O. ANGAPPAN, aged about 25 years the detenu, now confined in Central Prison, Puzhal, Chennai before this Court and set the petitioner's son NARENDHARAN S/O. ANGAPPAN, aged about 25 years the detenu herein at liberty.

For Petitioner : Mr. R.Muthukumar

For Respondents : Mr.M.Maharaja
Addl. Public Prosecutor

O R D E R

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

Challenge is made to the order of detention passed by the second respondent vide Proceedings in BCDFGISSSV No.9 of 2016 dated 20.01.2016, whereby the detenu, namely Narendran, S/o. Angappan, aged about 25 years, was ordered to be detained under

the provisions of 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) branding him as a "GOONDA".

2. Though many grounds have been raised in the petition, Mr.R.Muthukumar, the learned counsel appearing for the petitioner, confines his argument only in respect of non-application of mind on the part of the detaining authority in passing the order of detention.

3. Learned counsel appearing for the petitioner submitted that the Detaining Authority has relied upon a similar case registered by S-11 Tambaram Police Station in Cr.No.1340/2013 wherein bail was granted to the accused by the Judicial Magistrate, Tambaram in CrI.MP.No.17907/2013. But the said bail order has not been furnished to the detenu. This non-furnishing of the bail order has deprived the detenu from making an effective representation. This has not been duly verified by the Detaining Authority before passing the order of detention. Therefore, it is submitted that this is indicative of total non-application of mind on the part of the detaining authority and the same vitiates the detention order and is unsustainable in law.

4. 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.

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

6. As evidenced from the Booklet furnished to the detenu, the Bail order relating to the similar case in Cr.No.1340/2013 registered by the S-11 Tambaram Police Station, has not been furnished to the detenu. The non-furnishing of this vital document has deprived the detenu from making an effective representation. Whatever documents referred to and relied upon by the Detaining Authority have to be given to the detenu. Therefore, the above discrepancy vitiates the detention order and the same is liable to be set aside.

7. In the light of the above facts, we have no hesitation in quashing the order of detention on the above mentioned grounds.

8. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order 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(J)

//True Copy//

Sub Assistant Registrar

ga
To

1. Secretary to Government
Home, Prohibition and Excise (XVI) Department
Secretariat, Chennai -600 009
2. The Commissioner of Police
The Commissioner Office
Vepery, Chennai -600 007
3. The Additional Public Prosecutor
High Court, Madras.
4. The Superintendent,
Central Prison, Puzhal, Chennai.
5. The Joint Secretary to Govt.
Public (Law & Order) Dept.
Fort St.George, Chennai 9.

H.C.P.No. 226 of 2016

ksj co
kra 31.05.2016

सत्यमेव जयते

WEB COPY