

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.06.2016

CORAM

THE HON'BLE MR.JUSTICE S.NAGAMUTHU
and
THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

H.C.P.No.277 of 2016

Palaniyammal

... Petitioner

versus

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

2.The Commissioner of Police,
O/o The Commissioner of Police,
Salem City, Salem.

3.The Inspector of Police,
B-4 Annadhanapatty Police Station,
Salem District

... 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 of detention C.M.P.NO.84/GOONDA/SALEM CITY/2015 dated 02/12/2015 passed by the 2nd respondent and to quash the same and also to direct the detenu CHINRAJ @ CHINA RAJA S/O.DARMALIGAM who is presently detained in the Central Prison SALEM to be produced before this Hon'ble court and set at liberty.

For Petitioner : Mr.A.Raja Mohamed

For Respondents : Mr.A.N.Thambidurai,
Additional Public Prosecutor

ORDER

[Order of the Court was made by V.BHARATHIDASAN, J.]

This Habeas Corpus Petition is filed by the mother of the detenu, namely, Chinraj @ Chinna Raju, aged about 27 years, to issue a Writ of Habeas Corpus, to call for the records, in detention C.M.P.NO.84/GOONDA/SALEM CITY/2015 dated 02/12/2015 passed by the 2nd 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 14/1982), the 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 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 for the State and we have also perused the records carefully.

3. Though, several grounds have been raised in this Habeas Corpus Petition, Mr.A.Raja Mohamed, the learned counsel appearing on behalf of the petitioner, had assailed the impugned detention order mainly on the ground that the detaining authority had stated, in Paragraph No.5 of the order of detention, that bail application has been moved on behalf of the detenu for case in Annadanapatty P.S. Cr.No.523/2015. However, in the detention order it had been stated that the relatives of the detenu are taking action to take him out on bail even in cases of Annadanapatty PS Cr.No.418 of 2015 and Cr.No.481 of 2015, by filing bail applications before the appropriate Court. It had also been pointed out 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 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.

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 the above said 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, 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(V)

//True Copy//

To

- 1.The Secretary to Government
Home, Prohibition and Excise Department
Fort St.George, Chennai 600 009.
- 2.The Commissioner of Police, Salem City,
- 3.The Superintendent of Police,
Central Prison, Salem
- 4.The Additional Public Prosecutor,
High Court, Madras.
5. The Inspector of Police,
B-4 Annadhanapatty Police Station,
Salem District
6. The Joint Secretary to Government Public
(Law & order), Fort St. George,
Chennai. 600 009.

H.C.P.No.277 of 2016

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