

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2016

CORAM

THE HON'BLE MR.JUSTICE S.NAGAMUTHU

and

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

H.C.P.No.386 OF 2016

Jaya

Petitioner

Vs

1.State, rep. by Secretary to Government
Home, Prohibition and Excise Department,
Secretariat,
Chennai 600 009.

2.The Commissioner of Police,
Greater Chennai Police,
Vepery,
Chennai-7.

... 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 in Memo No.77/BCDFGISSSV/2016, passed by the second respondent, on 08.02.2016, set aside the same and direct the respondents to produce the detenu Karthick, S/o.Ganesan, aged 27 years, who is now detained in Central Prison, Puzhal, Chennai-66, before this Court and set him at liberty.

For Petitioner : Mr.S.Swamdoss Manokaran

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

ORDER

[Order of the Court was made by S.NAGAMUTHU,J.]

This Habeas Corpus Petition is filed, by the mother of the detenu, namely, Karthick, aged 27 years, Son of Ganesan, to issue a Writ of Habeas Corpus, to call for the records, in No.77/BCDFGISSSV/2016, passed by the second respondent, on

08.02.2016, 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.S.Swamidoss Manokaran, learned counsel appearing on behalf of the petitioner, has assailed the impugned detention order mainly on the ground that the detaining authority has stated, in Paragraph No.4 of the order of detention, it has been stated that the relatives of the detenu are taking action to take him out on bail in R-6 Kumaran Nagar Police Station in Crime Nos.97/2016, 98/2016 and 100/2016, by filing bail applications before the appropriate Court. It has also been pointed out that no statements have 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 have 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 have 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, dated 08.02.2016, 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(CS II)

//True Copy//

Sub Assistant Registrar

To

- 1.The Secretary to Government
Home, Prohibition and Excise Department,
Secretariat,
Chennai 600 009.
- 2.The Commissioner of Police,
Greater Chennai Police,
Vepery,
Chennai-7.
- 3.The Superintendent of Police,
Central Prison, Puzhal, Chennai.
- 4.The Public Prosecutor,
High Court, Madras.
- 5.The Joint Secretary to Government,
Public(Law & Order),
Fort Saint George, Chennai - 9.

H.C.P.No.386/2016

nm[col
srg 21/07/2016

WEB COPY