

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.05.2016

CORAM

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

H.C.P.No. 398 of 2016

Ponnammal

.. Petitioner/Mother of the
detenue

Vs.

1.State of Tamil Nadu

Rep.by its Secretary to the Government
Home, Prohibition and Excise Department
Secretariat, Chennai 600 009.

2.The Commissioner of Police

Greater Chennai Police
Vepery, Chennai -600 007

... 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 relating to petitioner's son detention under Tamil Nadu Act 14 of 1982 vide detention order, dated 30.01.2016 on the file of the second respondent herein made in proceedings No.35/BCDFGISSSV 2016 and quash the same as illegal and consequently direct the respondents herein to produce the said petitioner's son namely Satheesh son of Santhanam aged 32 years before this Court and set the petitioner's son at liberty from detention, now petitioner's son detained at Central Prison -II, Puzhal, Chennai - 600 066.

For Petitioner : Mr.C.C.Chellappan

For Respondents : Mr.M.Maharaja
Addl. 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, Satheesh, Son of Santhanam, aged about 32 years, has come forward with this petition challenging the detention order passed by the 2nd

respondent dated 30.01.2016 against his son 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. 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.C.C.Chellappan, 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.4 of the order of detention, that no bail application had been moved on behalf of the detenu, in T-12 Poonamallee Police Station Crime Nos.18 of 2016 and 24/2016. However, in the detention order it had been stated that the relatives of the detenu are taking action to take him out on bail, in T-12 Poonamallee Police Station Crime Nos. 18 of 2016 and 24 of 2016, by filing bail application before the appropriate Court.

4. 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 application, 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.

5. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 30.01.2016, 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/VO

//True Copy//

Sub Assistant Registrar

kua/ga

To

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

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

3.The Public Prosecutor
High Court, Madras.

4.The Superintendent of Police,
Central Prison, Puzhal, Chennai.

5.The Joint Secretary to Government
Public (Law & Order)
Fort Saint George, Chennai 9.

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