

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2016

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN
and
THE HON'BLE MR.JUSTICE S.BASKARAN

H.C.P.No.452 of 2016

Fathima ... Petitioner

Vs

- 1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-600 009.
- 2.The Commissioner of Police,
Chennai Police,
Chennai. ... 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 connection with the order of detention passed by the second respondent in his proceedings in BCDFGISSSV No.156/2016, dated 19.2.2016, against the husband of the petitioner, Sadham Hussain, aged about 23 years, son of Ahmad Hussain, who is confined at Central Prison, Puzhal, Chennai and set aside the same and to direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.K.S.Kaviarasu

For Respondents : Mr.V.M.R.Rajentran,
Additional Public Prosecutor

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ORDER

[Order of the Court was made by M.JAICHANDREN,J]

This Habeas Corpus Petition has been filed, by the wife of the detenu, namely, Sadham Hussain, son of Ahmad Hussain, aged about 23 years, praying that this Court may be

pleased to issue a Writ of Habeas Corpus, to call for the records, in No.156/BCDFGISSSV/2016, dated 19.2.2016, passed by the second respondent, detaining the detenu under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 (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 on behalf of the State and we have also perused the records, carefully.

3. Though, several grounds had been raised by the petitioner, while challenging the impugned order of detention, dated 19.2.2016, the learned counsel, appearing on behalf of the petitioner, had submitted that, in paragraph No.4 of the grounds of detention, it has been observed that the detenu has moved a bail application, in V-1 Villivakkam Police Station Crime No.50 of 2016, before the Court of Principal Sessions Judge, Chennai, in CrI.M.P.No.2563 of 2016 and that the same is pending disposal. It has also been stated that it is pertinent to note that in a similar case registered at T-8, Muthapudupet Police Station Crime No.805 of 2014, under Sections 341, 294(b), 336, 427, 392, 397 and 506(ii) of the Indian Penal Code, bail had been granted by the High Court, in CrI.O.P.No.1527 of 2015. The said order had been furnished to the detenu, in page No.163 of the booklet supplied to him. However, the said order is illegible. Hence, the detenu had been prevented from making an effective representation against the impugned order of detention. Thus, the detention order is vitiated and the same is liable to be quashed.

4. The said submission made by the learned counsel appearing on behalf of the petitioner, had not been refuted by the learned Additional Public Prosecutor appearing on behalf of the respondents.

5. A perusal of the booklet supplied to the detenu, would show that the copy of the document relied upon and referred to by the detaining authority, in page No.163 of the booklet, is illegible. As such, we find that the furnishing of the illegible copy of the order passed by the High Court, in CrI.O.P.No.1527 of 2015, would prejudice the detenu, in making

an effective representation against the impugned order of detention, dated 19.2.2016. Therefore, we are inclined to set aside the impugned detention order.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 19.2.2016, 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.

vvk

-Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar

To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai-600 009

2. The Commissioner of Police,
Chennai Police,
Chennai.

3 The Superintendent,
Central Prison, Chennai

4 The Joint Secretary,
Public [Low and Order]
Fort st. George, Chennai 9

5 The Director general of Police
Chennai 9.

6. The Public Prosecutor,
High Court, Madras.

H.C.P.No.452 of 2016

MV(CO)
RRI 12/11/2016