

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2016

CORAM

THE HONOURABLE MR.JUSTICE M.JAICHANDREN
and
THE HONOURABLE MR.JUSTICE S.BASKARAN

H.C.P.No.533 of 2016

Prakash

...Petitioner

Vs.

1.The Secretary to Government
Government of Tamil Nadu
(Home) Prohibition and Excise Department
Secretariat, Fort St. George
Chennai-9.

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

3.The Superintendent
Central Prison-II
Puzhal, Chennai-66.

...Respondents

(The 3rd respondent is impleaded
as per the order of the Court, dated
4.10.2016 made in Crl.M.P.No.10538
of 2016 in H.C.P.No.533 of 2016).

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus calling for the records in connection with the order of detention passed by the second respondent, in Memo No.16/BCDFGISSSV/2016, dated 22.01.2016, against the detenu, viz., Thiru. Prakash, son of Munusamy, aged about 28 years, who is confined at the Central Prison, Puzhal, Chennai, and to set aside the same and to direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : M/s.V. Senthil Murugan

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

ORDER

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

This Habeas Corpus Petition has been filed by the detenu, namely, Prakash, son of Munusamy, aged about 28 years, to issue a Writ of Habeas Corpus, to call for the records, in Proceedings No.16/BCDFGISSSV/2016, dated 22.01.2016, passed by the second 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 of 1982), branding him as a "Goonda", in Central Prison, Puzhal, Chennai, and to quash the same and to direct the Respondents to produce the body of the detenu and to set him at liberty forthwith.

2. We have heard the learned counsel appearing on behalf of the petitioner, as well as 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, the learned counsel appearing on behalf of the petitioner, has assailed the impugned order of detention mainly on the ground that the detaining authority had stated, in paragraph No.4 of the order of detention, that the relatives of the detenu are taking steps to take him out on bail, in Cr.No.21 of 2016 on the file of H-4 Korukkupet Police Station, by filing a bail application 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 a bail application, 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 appearing on behalf of the respondents.

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 a 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.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 22.01.2016, 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/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

rnb

To

1.The Secretary to Government
Government of Tamil Nadu
(Home) Prohibition and Excise Department
Secretariat, Fort St. George
Chennai-9.

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

3.The Superintendent
Central Prison-II
Puzhal, Chennai-66.

4.The Public Prosecutor, High Court, Madras.

5. The Joint Secretary to Government
Public (Law and order)
Fort Saint George, Chennai-9

1 cc to Mr.V. Senthilmurugan, Advocate, Sr. 60763

H.C.P.No.533 of 2016

CP (CO)
kk 5/12