

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.10.2016

CORAM

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

H.C.P.NO.589 OF 2016

Koteshwari ... Petitioner

Vs.

1.The State of Tamil Nadu
Rep. By its Secretary to Government
Prohibition and Excise Department (Home)
Secretariat,
Chennai - 600 009.

2.The Commissioner of Police
Chennai Police. ... 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 relating to the detainee's detention order passed by the second respondent dated 11.03.2016 in No.288/2016BCDFGISSSV and set aside the same and produce the detainee Kamala Kannan, M/A-47, Son of Veeraragavan, now detained in Central Prison-II, Puzhal, Chennai, before this Court and set him at liberty.

For Petitioner : Mr.S.Mohammed Aasif

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

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O R D E R

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

This Habeas Corpus Petition is filed by the wife of

the detenu namely, Kamalakannan, aged 47 years, S/o. Veeraraghavan, to issue a Writ of Habeas Corpus, to call for the records, in Memo No.288/BCDFGISSSV/2016 dated 11.03.2016, 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 14/1982), 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.Mohammed Aasif, learned counsel appearing on behalf of the petitioner, has 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 the detenu has not moved any bail applications in Crime Nos.49/2016, 89/2016 and 93 of 2016 on the file of V-3 J.J.Nagar Police Station. However, in the detention order it had been stated that the relatives are taking action to take him out on bail, in V-3 J.J.Nagar Police Station, in Crime Nos.49/2016, 89/2016 and 93 of 2016, 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, dated 11.03.2016, 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.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

- 1.The Secretary to Government
Government of Tamil Nadu
Home, Prohibition and Excise Department
Fort St. George,
Chennai - 600 009.
- 2.The Commissioner of Police
Office of the Commissioner of Police
Greater Chennai Police.
- 3.The Superintendent of Central Prison
Puzhal,
Chennai.
- 4.The Public Prosecutor
High Court of Madras.
5. The Joint Secretary to Government
Public (Law & order) Dept
Fort.St.George, Chennai-9.

ksj(co)
yj/12/11/2016

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