

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.623 OF 2016

Ganesan @ Jangili Ganesan ... Petitioner

Vs.

1.The Government of Tamil Nadu
Rep. By its Secretary
Home, Prohibition and Excise (XVI) Department
Fort St. George,
Chennai - 600 009.

2.The Commissioner of Police
Greater Chennai Police
Office of the Commissioner of 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 detention order Memo No.279/BCDFGISSSV/2016 dated 10.03.2016 on the file of the second respondent and quash the same and direct the respondents herein to produce the body of the petitioner Ganesan @ Jangili Ganesan, aged about 31 years, the detenu now confined in Central Prison, Puzhal before this Court and set him at liberty.

For Petitioner सत्यमेव जयते Mr.R.Devakumar

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 detenu namely, Ganesan @ Jangili Ganesan, aged 31 years, Son of Lakshmipathy, to issue a Writ of Habeas Corpus, to call for the records, in Memo No.279/BCDFGISSSV/2016, dated 10.03.2016, 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.R.Devakumar, 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 moved a bail application in Crime No.167 of 2016 on the file of P-2 Otteri Police Station and the same was dismissed by the Principal Sessions Judge at Chennai in CrI.M.P.No.3237 of 2016 dated Nil.03.2016. The detenu has not moved any bail applications in Crime No.175 of 2016 on the file of P-2 Otteri Police Station. However, in the detention order it had been stated that the relatives are taking action to take him out on bail, in P-2 Otteri Police Station, in Crime Nos.167 of 2016 and 175 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 10.03.2016, 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.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

TK

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 Joint Secretary to Government
Public (Law and order)
Fort St. George,
Chennai-9
- 5.The Public Prosecutor
High Court of Madras.

H.C.P.NO.623 OF 2016

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