

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2016

CORAM

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

H.C.P.No.662 of 2016

Dhoni

... Petitioner

Vs

1.The District Magistrate and
District Collector,
Tiruppur.

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

... 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 Cr.M.P.No.22/Goonda/2015, dated 30.12.2015, on the file of the first respondent and to quash the same and to bring the body of the petitioner, namely, Dhoni, aged about 38 years, son of Anthoni, now lodged at the Central Prison, Coimbatore and to set the petitioner at liberty.

For Petitioner : Mr.S.Rajeswaran

For Respondents : Mr.V.M.R.Rajentren
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 detenu, namely, Dhoni, son of Anthoni, aged about 38 years, to issue a Writ of Habeas Corpus, to call for the records, in Cr.M.P.No.22/Goonda/2015, dated 30.12.2015, passed by the first

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 the Central Prison, Coimbatore, 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, 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 states that the detenu is in remand in respect of the cases relating to Kangeyam Police Station Crime Nos.548, 213, 306 and 364 of 2015 and Uthiyur Police station Crime Nos.231, 279, 280 and 307 of 2015 and no bail applications had been filed by the detenu in the said cases. Hence, there is no real possibility of the detenu coming out on bail, in the near future. Therefore, the conclusion of the detaining authority that in a similar case, bail has been granted to the accused concerned and hence, there is a possibility of the detenu coming out on bail, in the above said cases shows his non application of mind, while passing the detention order.

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. On verification of the records, it is clear that no bail applications had been filed, by the detenu, in Kangeyam Police Station Crime Nos.548, 213, 306 and 364 of 2015 and Uthiyur Police station Crime Nos.231, 279, 280 and 307 of 2015. However, in the grounds of the detention order, it had been stated that, in a similar case, the accused concerned had been granted bail and hence, there is a real possibility of the detenu coming out on bail, in the above said cases. When no bail application has been filed by the detenu in the above said cases, there is no imminent possibility of the detenu coming out on bail, in the near future. In such circumstances, the statement of the detaining authority in the detention order that there is a real possibility of the detenu coming out on bail, shows the non application of mind on the part of the detaining authority. Thus, it is clear that the detention order has been passed by the detaining authority without proper application of mind and appreciation of facts. Therefore, we are inclined to set aside the detention order.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 30.12.2015, passed by the first 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

tsi/vvk

To

1. The Secretary to Government,
State of Tamil Nadu
Home, Prohibition and Excise Department,
Fort St.George, Chennai-600 009.
- 2.The District Collector and
District Magistrate,
Tiruppur.
3. The Superintendent Central Prison
Coimbatore (In duplicate for communication to detenu)
- 4.The Joint Secretary to Government
Public Law and order Fort St.George Chennai-9
- 5.The Public Prosecutor,
High Court, Madras.

+1 cc to Mr.S.Rajeswaran Advocate sr 62421

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