

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.773 of 2016

Shanmugam @ Nandukulambu Shanmugam .. Petitioner

Vs

1. The Secretary to Government,
Home Prohibition and Excise Department,
Secretariat,
Chennai-600 009.
2. Commissioner of Police,
Greater 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 in connection with the order of detention passed by the second respondent dated 9.2.2016 in Memo No.88/BCDFGISSSV/2016 against the detenu Shanmugam @ Nandukulambu Shanmugam, male aged 23 years S/o.Murugan, who is confined at Central Prison, Puzhal II, Chennai detenu before the same and direct the respondents to produce the detenu before the Hon'ble Court and set him at liberty.

For Petitioner : Mr.S.Senthilvel for
Mr.K.Shanmugam

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, Shanmugam @ Nandukulambu Shanmugam, son of

Murugan, aged about 23 years, to issue a Writ of Habeas Corpus, to call for the records, in No.88/BCDFGISSSV/2016, dated 09.02.2016, 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 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, 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 detention order mainly on the ground that the detaining authority had stated, in paragraph No.4 of the order of detention, that the detenu had not moved any bail application for M1 Madhavaram Police Station Crime No.35/2016 and M2 Madhavaram Milk Colony Police Station Crime No.1417/2015. It had been further stated that the relatives of the detenu are taking steps to take him out on bail, in the above said two cases, 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 09.02.2016, 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/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

vvk

To

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

+1cc to Mr.K. Shanmugam, Advocate, S.R.No.61823

sai(CO)
md(23/11/2016)

H.C.P.No.773 of 2016

WEB COPY