

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.10.2016

CORAM

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

H.C.P.No.820 of 2016

Suganya .. Petitioner
Vs

1.The State of Tamil Nadu,
rep by the Secretary to Government,
Prohibition and Excise Department,
Fort St. George, Chennai-600 009.

2.The District Magistrate and
District Collector,
Kancheepuram District. .. 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 in his proceedings in BCDFGISSSV No.21/2016, dated 18.3.2016, and to quash the same and to direct the respondents to produce the body of the petitioner's husband, namely, Nagaraj @ Milagaipodi Nagaraj, S/o.Elumalai, who is detained in the Central Prison, Vellore, before this Court and set him at liberty forthwith.

For Petitioner : Mr.B.Kumarasamy

For Respondents : Mr.V.M.R.Rajentran, APP

ORDER

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

This Habeas Corpus Petition has been filed by the wife of the detenu, namely, Nagaraj @ Milagaipodi Nagaraj, son of Elumalai, aged about 28 years, to issue a Writ of Habeas Corpus, to call for the records, in BCDFGISSSV No.21/2016, dated 18.03.2016, 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 of

1982), branding him as a "Goonda", in the Central Prison, Vellore, 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 order of detention mainly on the ground that the detaining authority had stated in paragraph No.5 of the detention order that the relatives of the detenu are taking steps to take him out on bail, 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.

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 18.03.2016, 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.

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Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

rnb

To

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

2.The District Magistrate and
District Collector,
Kancheepuram District.

3. The Superintendent
Central Prison,
Vellore

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.B. Kumarasamy, Advocate, Sr. 60368

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