

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.10.2016

CORAM

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

H.C.P.No.839 of 2016

Dhanalakshmi .. Petitioner

Vs

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-600 009.

2.The Commissioner of Police,
Greater Chennai,
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 connection with the order of detention passed by the second respondent in his proceedings in BCDFGISSSV No.363/2016, dated 29.3.2016, against the petitioner's husband Kandha @ Kandhakumar, son of Pushparaj, aged 27 years, who is confined at Central Prison, Puzhal, Chennai and set aside the same and to direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.K.S.Kaviarasu

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

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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, Kandha @ Kandhakumar, son of Pushparaj, aged about 27 years, to issue a Writ of Habeas Corpus, to call for

the records, in BCDFGISSSV No.363/2016, dated 29.3.2016, 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 relatives of the detenu are taking steps to take him out on bail, in J-6 Thiruvanmiyur Police Station Crime No.518 of 2016, 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.

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6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 29.3.2016, 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.

vvk

Sd/-

Assistant Registrar (VI)

/TRUE COPY/

Sub-Assistant Registrar

To

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

सत्यमेव जयते

H.C.P.No.839 of 2016

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KJI[CO]
MK:12/11/2016