

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.850 OF 2016

Manikandan ... Petitioner
Vs.

- 1.The State of Tamil Nadu
Rep. By its Secretary to Government
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. ... 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 relating to the detention order under the Tamilnadu Act 14 of 1982 vide Memo No.1267/2015 dated 22.12.2015 on the file of the second respondent, to produce the body of the detenu Manikandan, S/o. Mari, aged 22 years, who has confined in Central Prison, Puzhal, before this Court and set him at liberty.

For Petitioner : Mr.G.Natarajan

For Respondents : Mr.V.M.R.Rajentren
Additional Public Prosecutor

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, Manikandan, aged 22 years, Son of Mari, to issue a Writ of Habeas Corpus, to call for the records, in Memo No.1267/BCDFGISSSV/2015 dated 22.12.2015, 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.G.Natarajan, 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 not moved any bail application in Crime No.1780 of 2015 on the file of C2 Elephantgate Police Station. However, in the detention order it had been stated that the relatives are taking action to take him out on bail, in C2 Elephantgate Police Station, in Crime No.1780 of 2015, by filing bail application before the appropriate Court. It had also been pointed out that no statement had been recorded from the relatives of the detenu with regard to the claim that they are taking steps to move bail application, on behalf of the detenu and no such statement 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 application on behalf of the detenu, to take him out on bail, in the above said case. 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 22.12.2015, 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.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant 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 Public Prosecutor
High Court of Madras.
- 5.The Joint Secretary to Government
Public Law and Order
Fort St.George Chennai-9

+1 cc to M/s.G.Natarajan Advocate sr 58426

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