

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2016

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN

and

THE HON'BLE MR.JUSTICE S.BASKARAN

H.C.P.No.873 of 2016

Swetha Kothari ... Petitioner/Sister
of the Detenu

Vs

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

2.The Commissioner of Police,
Greater Chennai,
Vepery, Chennai-7. ... 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 Memo No.413/BCDFGISSSV/2016, dated 9.4.2016, against the petitioner's sister Monica, aged 26 years, daughter of Subash Chand Kothari, who is confined at Special Prison for Women at Puzhal, Chennai and set aside the same and to direct the respondents to produce the detenu before this Court and set her at liberty.

For Petitioner : Mr.I.Paul Noble Devakumar

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 sister of the detenu, namely, Monika, aged 26 years, Daughter of Subash Chand Kothari, to issue a Writ of Habeas Corpus, to call for the records, in BCDFGISSSV No.413/2016, dated 09.04.2016, 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 her as a "Goonda", in the Special Prison for Women, Puzhal, Chennai, and to quash the same and to direct the Respondents to produce the body of the detenu and set her 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 her out on bail, in R-1, Mambalam Police Station Crime Nos.284/2016, 285/2016, 290/2016 and 347/2016, 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.

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 her 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 09.04.2016, passed by the second respondent is set aside. The detainee is directed to be released, forthwith, unless her presence is required in connection with any other case.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

vvk

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,
Vepery, Chennai-7.
- 3 The Public Prosecutor
High Court, Madras.
- 4 The Superintendent
Special Prison for women at Puzhal,
Chennai.-66.
- 5 The Joint Secretary to Govt.,
Public (Law & Order) Department,
Secretariat, Chennai-9.

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CTR(CO)
vs(17.11.2016)