

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2016

CORAM

THE HONOURABLE MR.JUSTICE M.JAICHANDREN
AND
THE HONOURABLE MR.JUSTICE S.BASKARAN

H.C.P.NO.886 OF 2016

R.Amsaveni

Petitioner

Vs.

1.The State of Tamil Nadu

Represented by its Secretary to Government
Home, Prohibition and Excise Department
Fort St. George,
Chennai - 600 009.

2.The District Magistrate and
the District Collector

The Nilgiris District,
Udhagamandalam.

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 of the second respondent made in the detention order, Cr.M.P.No.03/2016, Goondas Act, dated 21.03.2016 and quash the same and direct the respondents to produce the detenu viz., Raghu S/o. Ranganathan, now undergoing detention in Central Prison, Coimbatore, before this Court and set him at liberty.

For Petitioner : Mr.K.V.Sridharan

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 has been filed by the mother of the detenu, namely Raghu, aged 25 years, Son of Ranganathan, to issue a Writ of Habeas Corpus, to call for the records in Cr.M.P.No.03/2016, dated 21.03.2016, passed by the

second respondent, detaining the detenu, under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), branding him as a "Goonda", in the Central Prison, Coimbatore, 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 moved bail applications for Aruvankadu Police Station, Crime Nos.5/2016 and 12/2016, before the Court of Judicial Magistrate, Coonoor, in C.M.P.Nos.255/2016 and 252/2016, and the same are pending. He had also stated that in a similar case at Anaimalai Police Station, Crime No.419/2011, under Sections 457, 380 and 461 IPC, bail had been granted by the Court of Judicial Magistrate No.1, Pollachi, to the accused, namely, Viswanathan, in C.M.P.No.5462/2011, on 23.09.2011. Therefore, there is a likelihood that the detenu would come out on bail in Aruvankadu Police Station, Crime No.5/2016, since bail had been granted by the Courts, in similar cases, after sometime. However, it has been pointed out that the said case, is not similar in nature, to the fourth adverse case, referred to by the detaining authority, said to be pending on the file of Aruvankadu Police Station, Crime No.5/2016, wherein bail application had been filed, on behalf of the detenu, before the Court of Judicial Magistrate, Coonoor, and that the same is pending.

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. In such circumstances, we find that there is non-application of mind on the part of the detaining authority, in passing the impugned 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 21.03.2016, 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.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

TK

To

- 1.The Secretary to Government
State of Tamil Nadu
Home, Prohibition and Excise Department
Fort St. George,
Chennai - 600 009.
- 2.The District Magistrate and
the District Collector
The Nilgiris District.
Udhagamandalam.
- 3.The Superintendent
Central Prison
Coimbatore.
4. The Joint Secretary to Government
Public (Law and order)
Fort St. George, Chennai-9
- 5.The Public Prosecutor
High Court of Madras.

1 cc to Mr.K.V. Sridharan, advocate, Sr. 61347

H.C.P.NO.886 OF 2016

GJ (CO)
kk 7/12

WEB COPY