

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.10.2016

CORAM

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

H.C.P.NO.901 OF 2016

Savithri

... Petitioner

Vs.

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

2.The Commissioner of Police
Chennai - 600 007.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS to call for the entire records culminating in the passing of the order of detention of petitioner's son, the detenu, under Act 14 of 1982 vide Detention Order No.438/BCDFGISSSV/2016 dated 15.04.2016 on the file of the second respondent herein and quash the same as illegal and consequently direct the respondents herein to produce the body and person of the detenu T.Harris Son of Tamilmani, aged about 24 years, before this Court and thereafter, set him at liberty from the detention, now confined in Central Prison, Puzhal.

For Petitioner

Mr.M.Shankar

For Respondents

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

WEB COPY

O R D E R

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

This Habeas Corpus Petition is filed by the mother of the detenu namely, Harris, aged 24 years, Son of Tamilmani, to issue a Writ of Habeas Corpus, to call for the records, in Detention Order No.438/BCDFGISSSV/2016 dated 15.04.2016, 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", who is now detained in the Central Prison, Puzhal, Chennai and to quash the same and to direct the Respondents to produce him before this Court 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.M.Shankar, 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 moved a bail application before the Principal Sessions Court, Chennai, in CrI.M.P.No.4569 of 2016 for H.5 New Washermenpet Police Station Crime No.240/2016 and the same is pending. However, in the detention order it had been stated that the relatives are taking action to take him out on bail, in H-5 New Washermenpet Police Station, Crime No.240/2016, by filing bail applications 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 bail applications, 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 bail

applications 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 15.04.2016, 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.

-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 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.M.Shankar Advocate sr 61330/16

H.C.P.NO.901 OF 2016

sr(co)
aa24/11/2016