

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2016

CORAM

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

H.C.P.No.927 of 2016

Rose

... Petitioner

Vs

1. The State of Tamil Nadu,
Rep.by its Secretary to Government Home,
Prohibition and Excise Department,
Fort St.George,
Chennai - 9.
 2. The Commissioner of Police,
Chennai City,
Egmore, Chennai - 8.
- 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 and quash the same leading to the detention of the petitioner's son namely Thanika @ Thanikachalam, son of Palayam, aged 29 years detained under Act 14/82 vide detention order dated 07.04.2016 on the file of the 2nd respondent herein made in Memo No.403/BCDFGISSSV/2016 the same and consequently direct the respondent herein to produce the body and person of the said detainee before this Court and thereafter set him liberty from Central Prison, Puzhal, Chennai.

For Petitioner : Mr.M.Baskar

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

ORDER

(Order of the Court was made by S.BASKARAN, J.)

The Habeas Corpus Petition has been filed by the mother of the detenu, namely, Thanika @ Thanikachalam, son of Palayam, aged 29 years, to issue a Writ of Habeas Corpus, to call for the records, in BDFGISSV No.403/2016 dated 07.04.2016, passed by the 2nd 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 on behalf of 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 for the petitioner has assailed the impugned detention order only on the ground of non-supply of copy of the Non-bailable Warrant and remand report in connection with Cr.No.94/2007 of M.4 Red Hills Police, referred to in the grounds of detention. Hence, the detenu had been prevented from making an effective representation against the impugned order of detention. Thus, the detention order is vitiated and the same is liable to be quashed.

4. The said submission 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. A perusal of the booklet supplied to the detenu, would show that no document showing the remand of the detenu by issuance of NBW relating to M.4 Red Hills Police Station Cr.No.94/2007 was furnished to him. As such, we find that non-furnishing of the copy of the Non-Bailable Warrant and Remand Report in M.4 Red Hills Police Station Cr.No.94/2007, would prejudice the detenu, in making an effective representation against the impugned order of detention, dated 07.04.2016. Therefore, we are inclined to set aside the impugned detention order.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 07.04.2016, 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.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government Home,
Prohibition and Excise Department,
Fort St.George,
Chennai - 9.
2. The Commissioner of Police,
Chennai City,
Egmore, Chennai - 8.
3. The Superintendent,
Central Prison,
Puzhal, Chennai.
(In duplicate for communication to Detenu)
4. The Joint Secretary to Government,
Public(Law & Order),
Fort Saint George, Chennai - 9.
5. The Public Prosecutor,
High Court, Madras.

H.C.P.No.927 of 2016

MG(CO)
CA(23/11/2016)

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