

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2016

CORAM

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

H.C.P.No.945 of 2016

Usha

... Petitioner

Vs

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

2. The Commissioner of Police,
The Commissioner Office,
Vepery, 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 records in connection with the order of detention passed by the second respondent, dated 13.4.2016 in memo No.422/BCDFGISSSV/2016 under the Tamil Nadu Act 14 of 1982 and set aside the same and direct the respondent to produce the petitioner's son Suresh, son of Murugesan, aged about 28 years, now confined in Central Prison, Puzhal, Chennai, before this Court and set him at liberty.

For Petitioner : Mr.R.Muthukumar

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

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ORDER

[Order of the Court was made by S.BASKARAN, J.]

This Habeas Corpus Petition has been filed, by the mother of the detenu, namely, Suresh, son of Murugesan, aged about 28 years, praying that this Court may be pleased to issue a Writ of Habeas Corpus, to call for the records, in No.422/BCDFGISSSV/2016, dated 13.4.2016, 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, Slum Grabbers and Video Pirates Act, 1982 (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. It is represented by the learned counsel appearing for the petitioner that the detenu has not been furnished the order copy of the bail granted in a similar case, referred to in the detention order, namely, the bail granted by the Principal Sessions Court, Chennai, in Crl.M.P.No.2197 of 2015, in respect of Crime No.311 of 2015 on the file of the K2 Ayanavaram Police Station. According to the petitioner, the non furnishing of the copy of the bail order in the similar case in Crime No.311 of 2015 had caused him prejudice and had prevented him 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. In view of the submissions made by the learned counsels appearing on behalf of the parties concerned and on perusal of the materials available, it is clearly found that the detaining authority had relied on a similar case registered in Crime No.311 of 2015, on the file of the K-2 Ayanavaram Police Station, wherein bail had been granted to the accused by the Principal Sessions Court, Chennai, in Crl.M.P.No.2197 of 2015. But, the bail order copy had not been furnished to the detenu. The same has not been denied by the learned Additional Public Prosecutor. In such circumstances, the non furnishing of the copy of the bail order to the detenu has caused prejudice to him and it has prevented him from making an effective representation, before the authorities concerned, against the impugned order of detention. 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 13.4.2016, 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(CS VI)

//True Copy//

Sub Assistant Registrar

vvk

To

1. The Secretary,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-600 009.
2. The Commissioner of Police,
The Commissioner Office,
Vepery, Chennai-600 007.
3. The Superintendent,
Central Prison,
Puzhal, Chennai.
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.945 of 2016

GJ(CO)
CA(05/12/2016)

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