

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2016

CORAM

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

H.C.P.No.986 of 2016

Varalakshmi .. Petitioner / mother of detenue

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 District Collector and
District Magistrate,
Kancheepuram District,
Kancheepuram. .. 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 pertaining to the order of detention passed in BCDFGISSSV No.31/2016, dated 12.4.2016, passed by the second respondent and to set aside the same and to direct the respondents to produce the petitioner's son, by name Vasa @ Vasanth, son of Dhayalan, aged about 23 years, before this court, now confined in the Central Prison, Vellore, and set him at liberty.

For Petitioner : Mr.K.Thenrajan

For Respondents : Mr.V.M.R.Rajentran, APP

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, Vasa @ Vasanth, son of Dhayalan, aged about 23 years, to issue a Writ of Habeas Corpus, to call for the records, in BCDFGISSSV No.31/2016, dated 12.04.2016,

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 him as a "Goonda", in the Central Prison, Vellore, 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. The learned counsel for the petitioner contends that in paragraph No.5 of the order of detention, it has been stated that in a similar case registered against another accused Sasikumar and others, in Marimalai Nagar Police Station Crime No.821 of 2015, they were released on bail through the Principal District Sessions Court, Chengalpattu, in CrI.M.P.No.3039 of 2015, on 5.1.2016. However, the accused in Crime No.821 of 2015 were granted statutory bail, by the Judicial Magistrate No.2, Chengalpattu, which is found in page No.227 of the booklet furnished to the detenu. Therefore, it is clear that there is non application of mind on the part of the detaining authority in passing the order of detention.

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. It is noted from the records available that in paragraph No.5 of the impugned order of detention, the detaining authority had stated that in a similar case registered in Crime No.821 of 2015, on the file of the Maraimalai Nagar Police Station, the accused were released on bail, by the Principal District Sessions Court, Chengalpattu, in CrI.M.P.No.3039 of 2015, on 5.1.2016. But, from the booklet furnished to the detenu, in page No.227, it is found that the accused in Crime No.821 of 2015 were granted statutory bail, by the Judicial Magistrate No.2, Chengalpattu. Thus, this clearly shows the non application of mind on the part of the detaining authority, while passing the order of detention. Therefore, we are inclined to set aside the detention order.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 12.04.2016, 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/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. 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 District Collector and
District Magistrate,
Kancheepuram District,
Kancheepuram.
3. The Superintendent
Central Prison,
Vellore
4. The Joint Secretary to Government
Public (Law and order) Fort Saint George,
Chennai
- 5.The Public Prosecutor,
High Court, Madras.

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