

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2017

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN
and
THE HON'BLE MR.JUSTICE T.MATHIVANAN

H.C.P.No.1349 of 2016

Kuppammal

.. Petitioner

Vs

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

2.The Commissioner of Police,
Chennai Police
Office of the Commissioner of Police
(Goondas Section)
Egmore, Chennai - 600 008

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, calling for the records in connection with the order of detention passed by the second respondent dated 29.02.2006 in Memo No.215 of 2016 against the petitioner's son, namely Seemonraj @ Stephen son of Marianathan, aged about 26 years, who is confined at Central Prison, Puzhal, Chennai and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.N.Selvarajan

For Respondents: Mr.V.M.R.Rajentran,
Additional Public Prosecutor (Crl.side)

ORDER

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

This Habeas Corpus Petition has been filed by the mother of the detenu, namely, Seemonraj@Stephen, aged 26 years, S/o.Mariyanathan, to issue a Writ of Habeas Corpus, to call for the records, in 215/BCDFGISSSV/2016, dated 29.03.2016, 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, Puzhal, and to quash the same and to direct the Respondents to produce the body of the detenu and to 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 detenu has not moved any bail application for K4, Anna Nagar Police Station, Cr.No.32 of 2016 so far. However, The sponsoring authority has stated that the relatives of Thiru Seemonraj @ Stephen are taking action to take him on bail in K-4, Anna Nagar Police Station, Cr.No.32 of 2016 by filing bail application 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, in the above said cases 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 appearing on behalf of the respondents.

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 Crime No.32 of 2016, on the file of the K-4, Anna Nagar Police Station, which is the ground 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 29.02.2016, 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

gpa

To

1.The Secretary to Government,
The State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-600 009.

2.The Commissioner of Police,
Chennai Police
Office of the Commissioner of Police
(Goondas Section)
Egmore, Chennai - 600 008

3.The Public Prosecutor,
High Court, Madras.

4. The Superintendent
Central Prison Puzhal
Chennai-66

5.The Joint Secretary to Government
Public Law and order
Fort St.George Chennai-9

H.C.P.No. 1349 of 2016

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aa03/02/2017