

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.1494 of 2016

Bhoopathi

.. Petitioner

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 Commissioner of Police,
Greater Chennai,
Vepery, Chennai.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, directing the respondents to produce the petitioner's son by name Mani @ Sathish Kumar, son of Boopathi, aged about 33 years, who is now confined in Cenral Prison, Puzhal, Chennai before this Court and set him at liberty and to call for the records pertaining to the order of detention passed in 620/BDFGISSSV/2016 dated 30.06.2016 passed by the second respondent and set aside the same.

For Petitioner : Mr.K.Thenrajan

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

ORDER

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

This Habeas Corpus Petition has been filed by the father of the detenu, namely, Mani @ Sathish Kumar, aged 33 years, son of Bhoopathi, to issue a Writ of Habeas Corpus, to call for the records, in Detention Order No.620/BCDFGISSSV/2016, dated

30.06.2016, 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 in the grounds of detention, the detaining authority had stated, in Paragraph 4 of the Detention Order, that the detenu has not moved any bail application for H-3 Tondiarpet P.S Cr.No.400 of 2016. The sponsoring authority has stated that the relatives are taking action to take him on bail in H-3 Tondiarpet P.S Cr.No.400/2016. But, 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 case 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.400 of 2016, on the file of H3, Tondiarpet 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 30.06.2016, 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

//True Copy//

Sub Assistant Registrar

gpa

To

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

2.The Commissioner of Police,
Greater Chennai, Vepery
Chennai.

3 The Superintendent
Central Prison,
Puzhal, Chennai

4 Te Joint Secretary to Government
Public (Law & Order)
Fort Saint George Chennai 9

5.The Public Prosecutor,
High Court, Madras.

sv(CO)
md(27/01/2017)

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