IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2017

CORAM

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

H.C.P.No.1501 of 2016

Anandhi .. Petitioner

Vs

1.The State of Tamil Nadu,
rep by its Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai-600 009.
2.The Commissioner of Police,
Chennai City Police,
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, calling for the records, relating to the impugned order, in No.531/BCDFGISSSV/2016, dated 2.6.2016, on the file of the second respondent and to set aside the same, as illegal and to direct the respondents to produce the detenu Sarath @ Sarathkumar, aged about 23 years, son of Sathiya, now detained in the Central Prison, Puzhal, Chennai, before this court and to set him at liberty.

For Petitioner : Mr.Ilayaraja Kandasamy

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

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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, Sarath @ Sarathkumar, aged about 23 years, son of Sathiya, to issue a Writ of Habeas Corpus, to call for the records, in No.531/BCDFGISSSV/2016, dated 2.6.2016,

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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, Chennai, 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 detaining authority had stated, in paragraph No.4 of the order of detention, that the detenu Sarath @ Sarathkumar is in remand, in J-1 Saidapet Police Station Crime Nos.656/2016 and 660/2016, and the detenu had filed a bail application, for Crime No.656 of 2016, before the IX Metropolitan Magistrate, Saidapet, Chennai, in Crl.M.P.No.880/2016, which had been dismissed, on 5.5.2016. The detenu had not moved any bail application, for Crime No.660 of 2016, so far. It had been further stated in the order of detention that the relatives of the detenu are taking action, to take him out on bail, by filing another bail application, for Crime No.656 of 2016 and a fresh bail application, for Crime No.660 of 2016, 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 Nos.656 of 2016 and 660 of 2016, on the file of J-1 Saidapet Police Station, which are the sixth adverse case and ground case, respectively. 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

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inclined to set aside the detention order.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 2.6.2016, 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

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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 City Police,
Commissioner Office, Vepery,
Chennai-600 007.
3. The Superintendent Central Prison
Puzhal Chennai

4.The Joint Secretary to Government
Public Law and Order Fort St.George Chennai-9

5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.1501 of 2016

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