

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.1521 of 2016

Shanthi

.. Petitioner

Vs

1. The Government of Tamil Nadu
rep. by its Secretary
Home, Prohibition and Excise (XVI) Department
Fort St. George
Chennai – 600 009

2.The Commissioner of Police
Greater Chennai Police
Office of Commissioner of Police
Chennai

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to call for the entire records, leading to passing of the order of detention, vide detention order BCDFGISSSV No.654/2016, dated 08.07.2016, on the file of the second respondent, against the petitioner's son, by name, Balakumar, aged about 23 years, S/o.Elumalai and to quash the same and to consequently direct the respondents to produce the said detenu before this Court, from the Central Prison, Puzhal, Chennai-66 and to set him at liberty.

For Petitioner : Mr.R.Vijayakumar

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

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, Balakumar, aged about 23 years, son of Elumalai, praying that this Court may be pleased to issue a Writ of Habeas Corpus, to call for the records, in BCDFGISSSV No.654/2016, dated 08.07.2016, 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-66 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 and the learned Additional Public Prosecutor appearing on behalf of the State and we have also perused the records, carefully.

3. Though, several grounds had been raised by the petitioner, while challenging the impugned order of detention, dated 08.07.2016, the learned counsel, appearing on behalf of the petitioner, had submitted that, in the booklet furnished to the detenu, page No.227, which is the copy of the order granting bail in a similar case, in Crime No.2303 of 2015, on the file of the J-1, Saidapet Police Station, is found illegible. Hence, the detenu had been prevented from making an effective representation against the impugned order of detention, dated 08.07.2016. 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. A perusal of the booklet supplied to the detenu would show that page No.227, which is the copy of the order granting bail in a similar case, in Crime No.2303 of 2015, on the file of the J-1, Saidapet Police Station, is found illegible. As such, we find that the furnishing of the illegible copy would prejudice the detenu in making an effective representation against the impugned order of detention, dated 08.07.2016. 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 08.07.2016, 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.

[M.J.,J.] [T.M.,J.]

10.01.2017

gpa

To

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

2. The Commissioner of Police
Greater Chennai Police
Office of Commissioner of Police
Chennai

3. The Public Prosecutor,
High Court, Madras.

M.JAICHANDREN,J.
AND
T.MATHIVANAN, J.

gpa

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