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.1525 of 2016

Karuppusamy .. Petitioner

Vs

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

2.The Commissioner of Police,
Greater Chennai,
Office of the Commissioner of Police,
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 detention order passed by the second respondent, pertaining to the order made in Memo No.604/BCDFGISSSV/2016, dated 28.6.2016 and to quash the same and to direct the respondents to produce the detenu, Muthukumar, son of Karuppusamy, aged about 25 years, detained in the Central Prison, Puzhal,Chennai before this Court and to set him at liberty.

For Petitioner : Mr.S.Nagarajan

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 father of the detenu, namely, Muthukumar, aged about 25 years, son of Karuppusamy, to issue a Writ of Habeas Corpus, to call

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for the records, in No.604/BCDFGISSSV/2016, dated 28.6.2016, 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, 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, Muthukumar, is in remand in R-5 Virugambakkam Police Station Crime Nos.108/2016 and 639/2016 and he had moved a bail application, for Crime No.108/2016, which is the adverse case, before the Court of Principal Sessions, Chennai, in Crl.M.P.No.7282/2016, which had been dismissed, on 3.6.2016. The detenu had, again, moved a bail application in the said adverse case, before the Court of Principal Sessions, Chennai, in Crl.M.P.No.7656 of 2016, which had also been dismissed, on 15.6.2016. It had been further stated in the order of detention that the detenu had not moved any bail application, for Crime No.639 of 2016, which is the ground case, so far. However, it had been stated in the order of detention that the relatives of the detenu are taking action to take him out on bail, in the said ground case, in Crime No.639 of 2016, by filing a bail application and by filing another bail application, in Crime No.108 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, by filing a fresh bail application in Crime Nos.639/2016 and by

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filing another bail application in Crime No.108/2016, on the file of R-5 Virugambakkam Police Station. 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 28.6.2016, 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.

Sd/-
Asst.Registrar

/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 Commissioner of Police,
Greater Chennai,
Office of the Commissioner of Police,
Vepery, Chennai-600 007.

3.The Public Prosecutor,
High Court, Madras.

4.The Superintendent,
Central Prison, Puzhal, Chennai-66

5.The Joint Secretary to Government,
Public(Law & Order)
Fort ST.George, Chennai-9

+1cc to Mr.S.Nagarajan, Advocate, SR.No.83

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