

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2017

CORAM

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

H.C.P.No.1559 of 2016

Thulasimani

... Petitioner

Vs

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

2.The District Collector and
District Magistrate,
Coimbatore.

.... Respondents

Prayer: Petition filed under Article 226 of the
Constitution of India, praying to issue a WRIT OF HABEAS
CORPUS, to call for the records in CrI.M.P.No.17/G/2016/E1,
dated 14.7.2016, on the file of the second respondent and to
quash the same and to direct the respondents to produce the body
of the petitioner's son Saravanan @ ATM Saravanan @
Saravanakumar, aged 28 years, son of Rajendran, now detained in
the Central Prison, Coimbatore, before this Court and to set him
at liberty.

For Petitioner : Mr.R.Subhadra Devi

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
mother of the detenu, namely, Saravanan @ ATM Saravanan @
Saravanakumar, aged about 28 years, son of Rajendran, to issue a
Writ of Habeas Corpus, to call for the records, in
Cr.M.P.No.17/G/2016/E1, dated 14.7.2016, 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, Coimbatore, 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.5 of the order of detention, that the detenu, Saravanan @ ATM Saravanan @ Saravanakumar, is in judicial remand, in respect of Sular Police Station Crime No.190/2016 and that he had not moved any bail application for the said case. It had been further stated in the order of detention that the relatives of the detenu are taking steps to take him out on bail, in respect of the above said crime number, namely, in Crime No.190 of 2016, on the file of Sular Police Station. However, it had been pointed out by the learned counsel appearing on behalf of the petitioner that no statements had been recorded from the relatives of the detenu with regard to the claim that they are taking steps to move a bail application, on behalf of the detenu 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 a bail application on behalf of the detenu, to take him out on bail, in respect of Crime No.190 of 2016, on the file of Sular 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 14.7.2016, 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(CS VI)

//True Copy//

Sub Assistant Registrar

vvk

To

- 1.The Principal Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise (XVI) Department,
Fort St. George, Chennai-600 009.
- 2.The District Collector and
District Magistrate,
Coimbatore.
- 3.The Joint Secretary to Government,
Public(Law & Order),
Fort Saint George, Chennai - 9.
4. The Superintendent,
Central Prison,
Coimbatore.
- 5.The Public Prosecutor,
High Court, Madras.

WEB COPY

H.C.P.No.1559 of 2016

nrjk[co]
srg 3/2/2017