

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.1568 of 2016

Nirmala

.. Petitioner

Vs

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

2.The Commissioner of Police,
The 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, to call for the entire records relating to the detention order passed by the second respondent in Memo No.692/BCDFGISSSV/2016, dated 13.7.2016, and quash the same and to direct the respondents to produce the petitioner's son Manikandan, son of Neelakandan, aged about 31 years, now confined in the Central Prison, Puzhal, Chennai, before this Court and to set him at liberty.

For Petitioner : Mr.J.Bala Murugan

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 mother of the detenu, namely, Manikandan, aged about 31 years, son of Neelakandan, praying that this Court may be pleased to issue a Writ of Habeas Corpus, to call for the records, in

BCDFGISSSV No.692/2016, dated 13.7.2016, 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 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 13.7.2016, the learned counsel, appearing on behalf of the petitioner, had submitted that, in paragraph No.4 of the grounds of detention, it has been observed that, in a similar case registered, in R-4 Soundarapandiyanar Angadi Police Station Crime No.384/2015, bail had been granted by the Court of Principal Sessions Judge, Chennai, in Crl.M.P.No.2805 of 2015 and that, there is a likelihood of the detenu coming out on bail, in S-4 Nandambakkam Police Station Crime Nos.1079/2016 and 1083/2016, which are the adverse case and ground case, respectively. It had been submitted by the learned counsel appearing on behalf of the petitioner that a copy of the F.I.R., relating to the similar case, in Crime No.384 of 2015, on the file of R-4 Soundarapandiyanar Angadi Police Station, had been furnished to the detenu, in page No.112, of the booklet supplied to him. However, the said F.I.R. copy is found illegible. Hence, the detenu had been prevented from making an effective representation against the impugned order of detention. 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 the copy of the F.I.R., relating to the similar case, in Crime No.384 of 2015, on the file of R-4 Soundarapandiyanar Angadi Police Station, found in page No.112 of the booklet, is illegible. As such, we find that the furnishing of the illegible copy of the F.I.R. relating to the similar case, would prejudice the detenu, in making an effective representation against the impugned order of detention, dated

13.7.2016. 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 13.7.2016, 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/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

vvk

To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai-600 009
- 2.The Commissioner of Police,
The Commissioner Office
Vepery, Chennai-600 007.
- 3.The Superintendent, Central Prison, Puzhal, Chennai (In
Duplicate for Communication to detenu)
- 4.The Joint Secretary to Government, Public(Law & Order)
Fort St. George, Chennai-9.
- 5.The Public Prosecutor,
High Court, Madras.

सत्यमेव जयते

H.C.P.No.1568 of 2016

sai(co)
ss(6/2/2017)

WEB COPY