

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.1.2017

CORAM

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

H.C.P.No.1575 of 2016

S.Tamilselvi ... Petitioner

Vs

1.The State of Tamilnadu,
rep by its Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai-600 009.

2.The Commissioner of Police,
Vepery,
Chennai-600 008. ... 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 relating to the detention order, dated 16.7.2016, in Memo No.715/BCDFGISSSV/2016, passed by the second respondent and to quash the same and to direct the detaining authority to produce the detenu, petitioner's husband, Saravanan, son of Manoharan, aged about 41 years, confined in the Central Prison, Puzhal, Chennai, before this court and to set him at liberty.

For Petitioner : Mr.N.Anand Venkatesh

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 wife of the detenu, namely, Saravanan, aged about 41 years, son of Manohar, praying that this Court may be pleased to issue a Writ of Habeas Corpus, to call for the records, in BCDFGISSSV

No.715/2016, dated 16.7.2016, 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 16.7.2016, the learned counsel, appearing on behalf of the petitioner, had submitted that a copy of the First Information Report, relating to the ground case, in Crime No.1588 of 2016, on the file of S-7 Madipakkam Police Station, had been furnished to the detenu, in page No.53 of the booklet supplied to him. However, the contents, relating to the complaint, had not been entered in the F.I.R. 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. Considering the submissions made by the learned counsels appearing on behalf of the parties concerned, it is found that in page No.53 of the booklet supplied to the detenu, a copy of the First Information Report, relating to the ground case, in Crime No.1588 of 2016, on the file of S-7 Madipakkam Police Station, had been furnished to the detenu. However, a perusal of the same would show that the contents, relating to the complaint, had not been entered in the F.I.R. As such, we find that non entering of the contents of the complaint, in the F.I.R., has prevented the detenu, in making an effective representation against the impugned order of detention, dated 16.7.2016. 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 16.7.2016, 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(CO)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai-600 009.
2. The Commissioner of Police,
Vepery,
Chennai-600 008.
3. The Superintendent,
Central Prison,
Puzhal, Chennai.
(In duplicate for communication to Detenue)
4. The Joint Secretary to Government,
Public(Law & Order),
Fort Saint George, Chennai - 9.
5. The Public Prosecutor,
High Court, Madras.

H.C.P.No.1575 of 2016

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srg 10/02/2017

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