

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2017

CORAM

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

H.C.P.No.1630 of 2016

Manickkam . . . . . Petitioner/Father of the  
Detenu

Vs

1. State of Tamil Nadu,  
rep by its Secretary to Government,  
Prohibition and Excise Department,  
Fort St. George,  
Chennai-600 009.
2. The Commissioner of Police,  
Salem city, Salem District. . . . . 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 order of detention of the petitioner's son, by name, Devakumar, son of Manickkam, vide detention order, CMP No.56/Goonda/Salem city/2016, dated 19.7.2016, on the file of the second respondent and quash the same as illegal and consequently, to direct the respondents herein to produce the body and person of the detenu, Devakumar, now detained in the Central Prison, Salem, before this court and to set him at liberty.

For Petitioner : Mr.R.Margabandhu

For Respondents : Mr.V.M.R.Rajentren  
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, Devakumar, aged about 30 years, son of Manickkam, to issue a Writ of Habeas Corpus, to call for the records, in C.M.P.No.56/Goonda/Salem city/2016, dated 19.7.2016, 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, Salem, 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 contended that paragraph No.4 found in the vernacular version of the grounds of detention, relating to the satisfaction of the detaining authority to detain the detenu, Devakumar, under the Tamil Nadu Act 14/1982, is missing in the English version of the grounds of detention furnished to the detenu. It shows the non application of mind on the part of the detaining authority while passing the order of detention.

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 paragraph No.4 found in the vernacular version of the grounds of detention, relating to the satisfaction of the detaining authority to detain the detenu, Devakumar, under the Tamil Nadu Act 14/1982, is found missing in the English version of the grounds of detention furnished to the detenu. This clearly shows the non application of mind on the part of the detaining authority, while passing the detention order, dated 19.7.2016. Therefore, we are inclined to set aside the detention order.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 19.7.2016, 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.

s/d-  
Assistant Registrar (CO)

//True Copy//

Sub-Assistant Registrar

To

1. The Secretary to Government,  
State of Tamil Nadu  
Home, Prohibition and Excise Department,  
Fort St.George, Chennai-600 009.
  2. The Commissioner of Police,  
Salem city, Salem District.
  3. The Superintendent, Central Prison, Coimbatore  
(In duplicate for communication to detenue)
  4. The Joint Secretary to Government,  
Public (Law & Order), Fort. St. George, Chennai-9
  5. The Public Prosecutor,  
High Court, Madras.
- +1 CC to Mr. R. Margabandhu, Advocate sr 8617

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PK(CO)  
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