

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2017

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN
and
THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

H.C.P.No.1633 of 2016

Muthukumaran

...Petitioner

Vs

1.The State of Tamilnadu,
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 records relating to the detention order, in Memo No.762/BCDFGISSSV/2016, dated 22.7.2016, passed by the second respondent and to set aside the same and to direct the respondents to produce the petitioner's brother, Sathish @ Kundrathur Sathish, aged about 28 years, son of Eganathan, the detenu, confined in the Central Prison, Vellore, before this court and to set him at liberty.

For Petitioner : Mr.M.Jaishankar

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 cousin brother of the detenu, namely, Sathish @ Kundrathur Sathish, aged about 28 years, son of Eganathan, praying that this Court may be pleased to issue a Writ of Habeas Corpus, to call for the records, in BCDFGISSSV No.762/2016, dated 22.7.2016, 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, Vellore and to quash the same and to direct the Respondents to produce the body of the detenu and to set him at liberty.

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 22.7.2016, 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 Principal Sessions Court, Chennai, in CrI.M.P.No.2805 of 2015. It had been further stated that in a similar case, registered, in J-1 Saidapet Police Station Crime No.2303 of 2015, bail had been granted, by the IX Metropolitan Magistrate Court, Saidapet, Chennai, in CrI.M.P.No.2768 of 2015. The learned counsel appearing on behalf of the petitioner had submitted that a copy of the F.I.R., relating to Crime No.384 of 2015, on the file of R-4 Soundarapandiyanar Angadi Police Station, had been furnished to the detenu, in page No.323 of the booklet supplied to him. Similarly, a copy of the remand extension order, dated 3.3.2015, relating to the above said case, in Crime No.384 of 2015, had been furnished to the detenu, in page No.389 of the booklet supplied to him. Further, in page No.449 of the booklet supplied to the detenu, a copy of the bail order granted by the IX Metropolitan Magistrate, Saidapet, Chennai, relating to the similar case, in Crime No.2303 of 2015, on the file of J-1 Saidapet Police Station, had been furnished to the detenu. However, page Nos.323, 389 and 449 of the booklet are found to be 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 a copy of the F.I.R., relating to Crime No.384 of 2015, on the file of R-4 Soundarapandiyanar Angadi Police Station, which had been furnished to the detenu, in page No.323 of the booklet supplied to him, is found illegible. Similarly,

the copy of the remand extension order, dated 3.3.2015, relating to the above said case, in Crime No.384 of 2015, which had been furnished to the detenu, in page No.389 of the booklet, is also found to be illegible. Apart from that, in page No.449 of the booklet supplied to the detenu, the copy of the bail order granted by the IX Metropolitan Magistrate, Saidapet, Chennai, relating to the similar case, in Crime No.2303 of 2015, on the file of J-1 Saidapet Police Station, had been furnished to the detenu and the same is also found illegible. As such, we find that the furnishing of the illegible copies of the documents relating to the similar cases would prejudice the detenu, in making an effective representation against the impugned order of detention, dated 22.7.2016. 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 22.7.2016, 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

//True Copy//

vvk
To

Sub Assistant Registrar

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 Public Prosecutor,
High Court, Madras.
4. The Superintendent,
Central Prison, Vellore.
5. The Joint Secretary to Government,
Public (L & O) Fort st. George,
Chennai-9.

MP (CO)
RS (14/02/2017)

H.C.P.No.1633 of 2016