

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.1636 of 2016

V.Dhanalakshmi ... Petitioner

Vs

1.The State,
rep by the Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-600 009.

2.The Commissioner of Police,
Greater Chennai,
Vepery, Chennai-7.

... 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 BCDFGISSSV No.761/2016, passed by the second respondent, on 22.7.2016, set aside the same and to direct the respondents to produce the detenu, Vijayan, son of Pachaiyappan, aged 36 years, now detained in the Central Prison, Puzhal, Chennai, before this court and to set him at liberty.

For Petitioner : Mr.Swamidoss Manokaran

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 wife of the detenu, namely, Vijayan, aged about 36 years, son of Pachaiyappan, to issue a Writ of Habeas Corpus, to call for the records, in BCDFGISSSV No.761/2016, 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, 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, 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.4 of the order of detention, that the detenu, Vijayan, is in remand, in S-4 Nandambakkam Police Station Crime Nos.1079/2016 and 1081/2016, which are the adverse case and the ground case, respectively, and that, he had moved a bail application, for Crime No.1079/2016, before the Court of Principal District and Sessions Judge, Chengalpattu, in CrI.M.P.No.1701 of 2016. It had been further stated in the grounds of detention that the detenu had not moved any bail application, for Crime No.1081 of 2016, so far. It had been stated that the relatives of the detenu are taking steps to take him out on bail, in S-4 Nandambakkam Police Station Crime No.1081 of 2016, by filing a bail application before the appropriate Court. 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 the ground case, in Crime No.1081 of 2016, on the file of S-4 Nandambakkam 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 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(CO)

//True Copy//

Sub Assistant Registrar

vvk

To

- 1.The Secretary to Government,
The State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-600 009.
- 2.The Commissioner of Police,
Greater Chennai,
Vepery, Chennai-7.
- 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.

WEB COPY

H.C.P.No.1636 of 2016

vd[co]
srg 10/2/2017