

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2017

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN

and

THE HON'BLE MR.JUSTICE M.V.MURALIDARAN

H.C.P.No.1642 of 2016

M.Rani ... Petitioner

Vs

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

2.The District Magistrate and
District Collector,
Namakkal District,
Namakkal.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, calling for the records, pertaining to the order, dated 21.7.2016, passed by the second respondent, in C.M.P.No.24/Goonda/2016/M1 and quash the same and produce the petitioner's son, detenu, Ezhumalai, aged about 25 years, son of Mahalingam, confined in the Central Prison, Salem, before this court and to set him at liberty.

For Petitioner : Mr.S.Manoharan

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 mother of the detenu, namely, Elumalai, aged about 25 years, son

of Mahalingam, to issue a Writ of Habeas Corpus, to call for the records, in C.M.P.No.24/Goonda/2016/M1, dated 21.7.2016, 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.

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.3 of the grounds of detention, that the detenu, Elumalai, had been remanded and lodged in the Central Prison, Salem, in respect of Tiruchengode Town Police Station Crime No.184 of 2016 and that he had not filed any bail application, so far. It had been further stated in the grounds of detention that the relatives of the detenu are taking steps to take him out on bail, by filing a bail application before the appropriate court. It had been submitted 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, in the above said case 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 Crime No.184 of 2016, on the file of Tiruchengode Town 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 21.7.2016, 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(CCC)

/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 District Magistrate and
District Collector,
Namakkal District,
Namakkal.
- 3.The Superintendant,
Ceentral Prison, Salem.
- 4.The Joint Secretary to Government,
Public Law and Order,
- 5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.1642 of 2016

SV(CO)
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