

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2017

CORAM

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

H.C.P.No.1655 of 2016

T.Valli .. Petitioner

Vs

1.The State of Tamil Nadu,
rep by the Secretary,
Home, Prohibition and Excise Department,
Fort St. George,
Secretariat,
Chennai-600 009.

2.The Commissioner of Police,
Greater Chennai,
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 entire records leading to the detention of the petitioner's son, who has been detained in the Central Prison, Puzhal, Chennai, by the second respondent, vide Memo No.644/BCDFGISSSV/2016, dated 5.7.2016 and quash the same as illegal and consequently, to direct the respondents to produce the detenu Alex Pandian @ Chinna Alex, son of Thavasi, aged about 26 years, before this court and to set him at liberty.

For Petitioner : Ms.G.S.Dhanalakshmi

For Respondents: Mr.V.M.R.Rajentran, APP

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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, Alex Pandian @ Chinna Alex, aged about 26 years, son of Thavasi, to issue a Writ of Habeas Corpus, to call for the records, in No.644/BCDFGISSSV/2016, dated 5.7.2016, 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.

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 had been raised by the petitioner, while challenging the impugned order of detention, dated 5.7.2016, the learned counsel, appearing on behalf of the petitioner, had submitted that, even though it had been stated, in paragraph 3 of the grounds of detention, that the arrest intimation of the detenu, Alex Pandian @ Chinna Alex, had been given to his father, namely, Thavasi, by Registered Post, on the same day, no documents had been furnished to the detenu to substantiate the said claim. It had been further submitted that a courier receipt had been furnished to the detenu, in page No.143 of the booklet supplied to him. Even in the said courier receipt, the name and other particulars of the person, to whom it had been sent was not clear. The learned counsel appearing on behalf of the petitioner had submitted that the arrest intimation of the detenu should have been given to the relatives of the detenu. Thus, the detention order is vitiated and the same is liable to be quashed.

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 in paragraph No.3 of the grounds of detention, it had been stated that the arrest intimation of the detenu, Alex Pandian @ Chinna Alex, had been given to his father, namely, Thavasi, by Registered Post, on the same day. However, a courier receipt had been furnished to the detenu, in page No.143 of the booklet supplied to him. But, in the said courier receipt, the name and other particulars of the person, to whom it had been sent, were not clearly mentioned. Thus, it is clear that no documents had been furnished to the detenu to substantiate the claim that the arrest intimation of the detenu had been given to his father, which is a mandatory one. In such circumstances, we are inclined to set aside the detention order.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 5.7.2016, 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/

Sub Assistant Registrar

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-600 007.
- 3.The Public Prosecutor,
High Court, Madras.
- 4 The Superintendent, Central Prison,
Puzhal, Chennai-66.

5 The Joint Secretary to Government,
Public (Law & Order), Fort St.George, Chennai-9.

H.C.P.No.1655 of 2016

SDR 28.02.2017



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