

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2017

CORAM

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

H.C.P.No.1690 of 2016

Pichaiammal @ M.Mookayi .. Petitioner

Vs

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

2. The Chairman
Advisory Board
Ground Floor
Singaravelar Maaligai
Chennai Collectorate
No.32, Rajaji Salai
Chennai - 600 001

3. The Commissioner of Police
Greater Chennai, Chennai Police
Office of the Commissioner of Police
[Goondas Section]
Vepery, Chennai - 600 007

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, calling for the records, relating to the proceedings of the second respondent herein in 42/BCDFGISSSV/2016, dated 01.02.2016 and to quash the same and to direct the respondents to produce the detenu, namely Suresh, Son of Late Muthusamy, aged about 25 years, detained in Central Prison, Puzhal before this Court.

For Petitioner : Mr.A.S.Baalaji
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, Suresh Son of Late Muthusamy, aged about 25 years, to issue a Writ of Habeas Corpus, to call for the records, in 42/BCDFGISSSV/2016, dated 01.02.2016, 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, 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 in the grounds of detention, the detaining authority had stated that he is aware that the detenu, namely, Suresh is in remand in T-3, Korattur Police Station, Crime Nos.961 of 2015 and 28 of 2016 and he has not moved any bail application for the said crime numbers so far. However, the Sponsoring authority had stated that the relatives of the detenu are taking action to take him out on bail by filing bail applications, before the appropriate Court, for Crime Nos.961 of 2015 and 28 of 2016. But, no statements had been recorded from the relatives of the detenu with regard to the claim that they are taking steps to move bail applications, on behalf of the detenu, in the above said cases 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 bail applications on behalf of the detenu, to take him out on bail, in Crime Nos.961 of 2015 and 28 of 2016, T-3, Korattur Police Station, which are the adverse case and the ground case,

respectively. 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 01.02.2016, 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,
The State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-600 009.
 2. The Chairman
Advisory Board
Ground Floor
Singaravelar Maaligai
Chennai Collectorate
No.32, Rajaji Salai
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 3. The Commissioner of Police
Greater Chennai, Chennai Police
Office of the Commissioner of Police
[Goondas Section]
Vepery, Chennai - 600 007
 4. The Superintendent, Central Prison, Puzhal, Chennai
(In duplicate for communication to Detenue)
 5. The Joint Secretary to Government
Public (Law & Order),
Fort.St. George,
Chennai 9
 6. The Public Prosecutor,
High Court, Madras.
- +1 CC to M/s. A. Baalaji, Advocate sr 5372

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NM(CO)
sp/21/2