

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2017

CORAM

THE HON'BLE MR.JUSTICE S.NAGAMUTHU
and
THE HON'BLE DR.JUSTICE ANITA SUMANTH

H.C.P.No.1821 of 2016

Sathiya .. Petitioner/Detenu

versus

1. The Secretary to Government,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.

2. The Commissioner of Police,
Greater Chennai,
Vepery, Chennai - 600 007.

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, to call for the records of detention order made in BCDFGISSSV No.491/2016 dated 28.04.2016 passed by the Commissioner of Police, Greater Chennai, Vepery, Chennai, the second respondent herein against the petitioner/detenu Thiru Sathiya, son of Paulraj, aged about 27 years, who is now confined at Central Prison, Puzhal, Chennai and set aside the same and produce him before this Hon'ble Court and set him at liberty.

For Petitioner : Mrs.M.Sumathi

For Respondents : Mr.V.M.R.Rajentren

Additional Public Prosecutor

O R D E R

[Order of the Court was made by S.NAGAMUTHU,J.]

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This Habeas Corpus Petition has been filed by the detenu to issue a Writ of Habeas Corpus, to call for the records connected with the detention order of the second respondent, in Memo No. 491/BCDFGISSSV/2016, dated 28.04.2016, detaining the detenu, namely, Sathiya, aged about 27 years, S/o Paulraj, 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, Sexual Offenders, Slum Grabbers and Video Pirates

Act, 1982 (Tamil Nadu Act 14/1982), branding him as a "Goonda" as contemplated u/s 2(f) of the Tamil Nadu Act 14 of 1982, and to set aside the same and to produce the detenu before this Court and set him at liberty.

2. We have heard the learned counsel appearing on behalf of the petitioner and 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, Mrs.M.Sumathi, the learned counsel appearing on behalf of the petitioner, had 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 no bail application has been moved on behalf of the detenu, in H-3 Tondiarpet Police Station Crime No.201/2016. However, in the detention order, it had been stated that the relatives of the detenu are taking action to take him out on bail, in H-3 Tondiarpet Police Station Crime No.201/2016, by filing bail application before the appropriate Court.

4. 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 the above said cases. 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.

5. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 28.04.2016, 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.

सत्यमेव जयते

-s/d-

Assistant Registrar (CCC)

True Copy

Sub-Assistant Registrar

To

1. The Secretary to Government,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.

2. The Commissioner of Police,
Greater Chennai,
Vepery, Chennai - 600 007.

3. The Additional Public Prosecutor
High Court, Madras.

4. The Superintendent, Central Prison, Puzhal, Chennai

5. The Joint Secretary to Government
Public Law And Order
Fort. St. George
Chennai 9

+1 CC to M/s. M/. Sumathi, Advocate sr 15226

H.C.P.No.1821 of 2016

SVI (CO)
sp/7/4



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