

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.05.2017

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
and
THE HON'BLE MR.JUSTICE R.SUBRAMANIAN

H.C.P.No.2549/2016

Ummu Salma

... Petitioner

Vs

1. The Secretary to Government
Home, Prohibition and Excise Department,
Fort St.George
Chennai 600 009.

2. The Commissioner of Police,
Chennai City Police,
Office of the Commissioner of Police,
Vepery, Chennai-8.

... 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 relating to the detention order vide Memo No.BCDFGISSSV No.1130/2016 dated 03.11.2016 passed by the 2nd respondent and set aside the same and direct the respondent to produce the body of the detenu Haris, S/o.Alavudeen, aged about 30 years, now confined in Central Prison, Puzhal before this Court and set him at liberty forthwith.

For Petitioner : M/s.S.Mohamed Yasin

For Respondents : Mr.E.Raja,
Additional Public Prosecutor

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ORDER

[Order of the Court was made by M.M.SUNDRESH,J]

Though the matter stood adjourned to June 1st week by the earlier order passed by this Court dated 21.04.2017, we are inclined to take up this case in view of the submission made by the learned Counsel for the petitioner, that the co-accused, who

also served similar detention order got it quashed by the orders of this Court in HCP. No.2560/2016 dated 28.04.2017.

2. This Habeas Corpus Petition is filed, by the sister of the detenu, namely, Haris, S/o.Alavudeen, aged about 30 years, to issue a Writ of Habeas Corpus, to call for the records, relating to the detention order vide Memo No.BCDFGISSSV No.1130/2016 dated 03.11.2016, passed by the 2nd 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 14/1982), the 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 set him at liberty forthwith.

3. The learned Counsel appearing for the petitioner made two submissions in which one is with respect to the non-compliance of Section 8(1) of the Act 14/1982. This is a specific reference to the belated supply of grounds of detention. According to the petitioner, the grounds have been served after 8 days. The second submission is that with respect to the non-supply of the documents in similar case registered at R4 Soundarapandiyanar Angadi Police Station Crime No.1987/2014 under Section 379 IPC and bail was granted by the Court of XVII Metropolitan Magistrate, Saidapet, Chennai in CrI.M.P.No.202/2015.

4. The learned Additional Public Prosecutor would submit that in so far as the first contention is concerned, the provisions of General Clause Act would apply and therefore, there is a due compliance made. So far as the second submission is concerned, the learned Additional Public Prosecutor would submit that a perusal of the records would clearly show that a copy of the order passed in CrI.M.P.No.202/2015 pertaining to Crime No.1987/2014 has not been furnished to the detenu.

5. In such view of the matter, without going into the first issue, we deem it appropriate to quash the order of detention on the sole ground that a copy of the order passed in CrI.M.P.No.202/2015 pertaining to Crime No.1987/2014 on the file of R4 Soundarapandiyanar Angadi Police Station which has been relied upon by the detaining authority has not been furnished. Therefore, the order of detention is liable to be quashed.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 03.11.2016, 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(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government
Prohibition and Excise Department (Home),
Fort St.George
Chennai 600 009.
2. The Commissioner of Police,
Chennai City Police,
Office of the Commissioner of Police,
Vepery, Chennai-8.
3. The Superintendent of Police,
Central Prison, Puzhal, Chennai.
4. The Joint Secretary to Government
(Law & Order) department,
Fort Saint George, Chennai-9
5. The Additional Public Prosecutor,
High Court, Madras.

KS(CO)
CS/05/06/17

H.C.P.No.2549/2016

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