

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.05.2016

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THE HON'BLE MR.JUSTICE G.CHOCKALINGAM
and
THE HON'BLE MR.JUSTICE M.V.MURALIDARAN

H.C.P.No.59 of 2016

S.Kalaiselvi

..Petitioner

Vs.

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

2. The Commissioner of Police
Office of the Commissioner of Police
Salem City

...Respondents

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 2nd respondent herein in C.M.P.NO.67/GOONDA/SALEM CITY/2015 and order passed on 24/08/2015 to quash the same and produce the detenu THIRU.SARAVANAN S/O.SELVAM 33 YEARS now detained in Salem Central Prison, Salem before this Court and set him at liberty.

For Petitioner : Mr.C.Girishbabu

For Respondents : Mr.M.Maharaja

Addl. Public Prosecutor

O R D E R
सत्यमेव जयते

[Order of the Court was made by G.CHOCKALINGAM, J.]

Challenge is made to the order of detention passed by the second respondent vide Proceedings in CMP.No.67/Goonda/Salem City/2015 dated 24.8.2015 whereby the detenu/ son of the petitioner, by name, Saravanan, S/o. Selvam, aged 33 years, was ordered to be detained under the provisions 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 of 1982) branding him as a "Goonda".

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, Mr.C.Girishbabu, 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.5 of the order of detention, that no bail application had been moved on behalf of the detenu, in Crime Nos.679/2015 and 830 of 2015. However, in the detention order it had been stated that the detenu is taking action to take him out on bail, in Crime Nos. 679/2015 and 830 /2015, by filing bail applications before the appropriate Court.

4. It is noted from the records available, that no statements had been recorded from the detenu or relatives concerned to substantiate the claim that they are taking steps to move bail application, on behalf of the detenu, to take him out on bail, in the above said case. 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 24.8.2015, 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 (CSIV)

True Copy

Sub-Assistant Registrar

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To

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

2. The Commissioner of Police,
Office of the Commissioner of Police
Salem City.

3.The Additional Public Prosecutor
High Court, Madras.

4.The Superintendent of Police,
Central Prison, Salem

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

+1 cc to Mr.C.Girish Babu Advocate sr.28888

H.C.P.No.59 of 2016

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