

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2016

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN
and
THE HON'BLE MR.JUSTICE S.NAGAMUTHU

H.C.P.No.2007 of 2015

Rasitha

..... Petitioner

Vs

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

2.The Commissioner of Police,
Chennai Police,
Office of the Commissioner of Police
(Goonda Section),
Egmore, Chennai - 600 020.

3.The Superintendent of Prison,
Central Prison, Puzhal, Chennai.

.. 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 connected with the detention order of the second respondent in BCDFGISSSV No.659/2015 dated 30.07.2015 and quash the same and direct the respondents to produce the body and person of the petitioner's husband by name Rakeshkumar @ Rocky @ Rakesh, son of Gopalakrishnan, aged about 25 years detained in Central Prison, Puzhal, Chennai, before this Court and set him at liberty forthwith.

For Petitioner : Mr.S.Mohamed Ansar

For Respondents : Mr.A.N.Thambidurai,
Additional Public Prosecutor

ORDER

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

This Habeas Corpus Petition has been filed, by the wife of the detenu, namely, Rakeshkumar @ Rocky @ Rakesh, to issue a Writ of Habeas Corpus, to call for the entire records connected with the detention order of the second respondent, in

BCDFGISSSV No.659/2015, dated 30.07.2015 and quash the same and direct the respondents to produce the body and person of the petitioner's husband by name Rakeshkumar @ Rocky @ Rakesh, son of Gopalakrishnan, aged about 25 years detained in Central Prison, Puzhal, Chennai, before this Court and set him at liberty forthwith.

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.S.Mohamed Ansar, 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 applications had been moved on behalf of the detenu, in J3 Guidy Police Station Crime Nos.862/2015 and 864/2015. 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 J3 Guidy Police Station Crime Nos.862/2015 and 864/2015, by filing bail applications before the appropriate Courts.

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 30.07.2015, 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.

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Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

jbm

To

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

2.The Commissioner of Police,
Chennai Police,
Office of the Commissioner of Police
(Goonda Section),
Egmore, Chennai - 600 020.

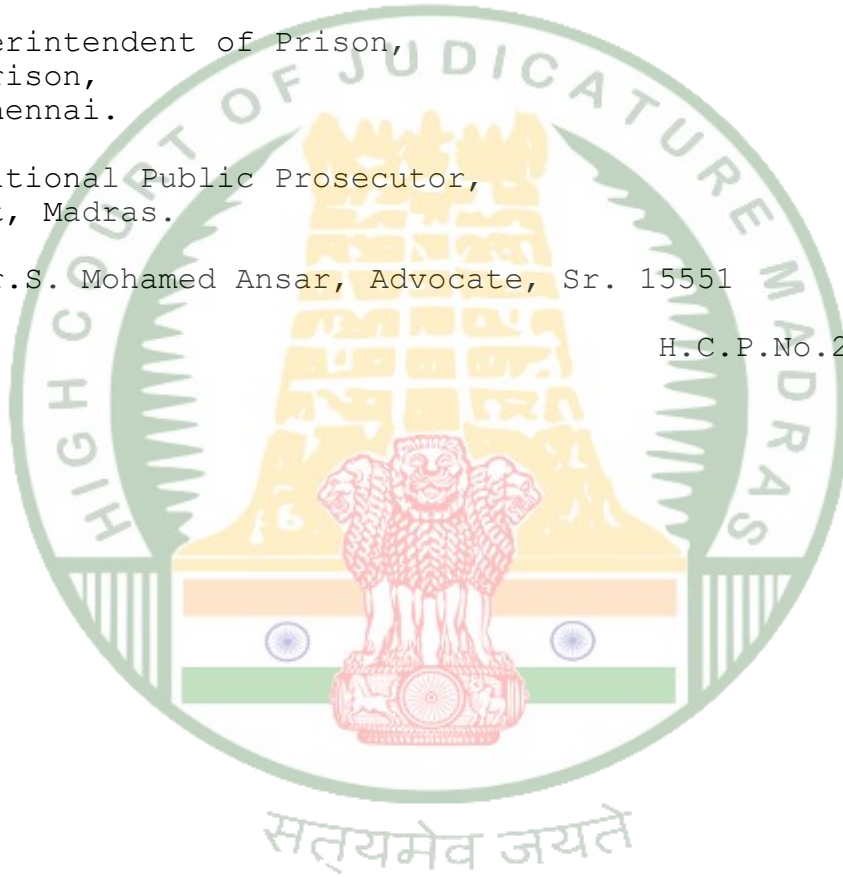
3.The Superintendent of Prison,
Central Prison,
Puzhal, Chennai.

4.The Additional Public Prosecutor,
High Court, Madras.

1 cc to Mr.S. Mohamed Ansar, Advocate, Sr. 15551

H.C.P.No.2007 of 2015

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