

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2016

CORAM

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

H.C.P.No.2206/2015

Tamarai

..Petitioner

Vs

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

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

..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 in connection with the order of detention passed by the second respondent dated 17.08.2015 in BDFGISSV No.753/2015, against petitioner's son, the detenu herein, now confined at Central Prison, Puzhal and set aside the same and direct the respondents to produce the detenu Thiru Jagan @ Rettai Mattai, S/o. Selvam, aged about 30 years before this Court and set him at liberty.

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

ORDER

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

This Habeas Corpus Petition is filed, by the mother of the detenu, namely, Jagan @ Rettai Mattai, aged 30 years, Son of Selvam, praying that this Court may be pleased to issue a Writ of Habeas Corpus, to call for the records, in No.753 of 2015, dated 17.08.2015, 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 II, Chennai, and to quash the same and to direct the Respondents to produce the body of the detenu 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 on behalf of the State and we have also perused the records carefully.

3. Though, several grounds have been raised in this Habeas Corpus Petition, Mr.Nirmal Kumar, 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 had been moved on behalf of the detenu, in T-13, Kundrathur Police Station Crime No.734 of 2015. However, it had been stated that the relatives of the detenu are taking action to take him out on bail, in T-13, Kundrathur Police Station Crime No.734 of 2015, 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 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 17.08.2015, 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.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

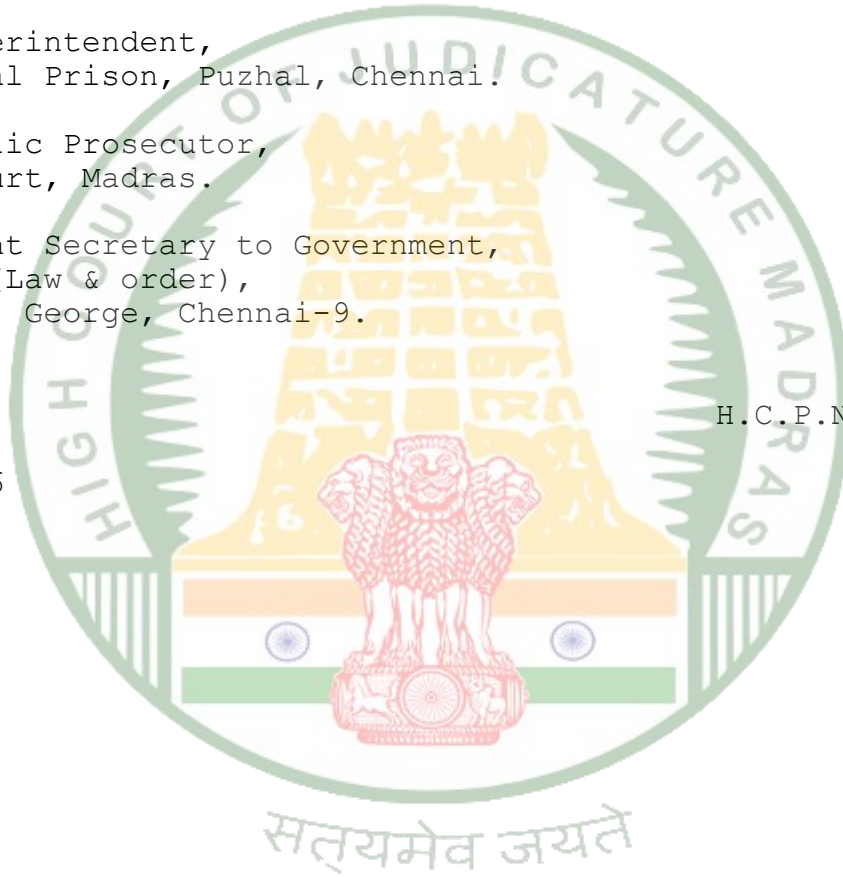
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To

- 1.The Secretary to Government
Government of Tamil Nadu
Home, Prohibition and Excise Department
Fort St.George
Chennai 600 009.
- 2.The Commissioner of Police, Greater Chennai,
Vepery, Chennai-7
- 3.The Superintendent,
Central Prison, Puzhal, Chennai.
- 4.The Public Prosecutor,
High Court, Madras.
- 5.The Joint Secretary to Government,
Public (Law & order),
Fort St. George, Chennai-9.

KGK(CO)
Eu 06.4.16

H.C.P.No.2206/2015



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