

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.03.2016

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN

and

THE HON'BLE MR.JUSTICE S.NAGAMUTHU

H.C.P.No.2228 of 2015

K.Sarashwathi Petitioner

Vs

1.The State of Tamil Nadu
rep. by its Secretary to Government
Home, Prohibition and Excise Department
Secretariat,
Chennai 600 009.

2.The Commissioner of Police,
Veppery, 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 records of the second respondent vide his order Memo No.BCDFGISSSV No.828/2015 dated 29.08.2015 and to produce the body of the detenu viz., Balaji, aged about 28 years, son of Late Kumar, who is presently detained in the Central Prison, Chennai, before this Court and set him at liberty.

For Petitioner :Mr.V.Devendhiran

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, Thiru.Balaji, aged 28 years, Son of Kumar, to issue a Writ of Habeas Corpus, to call for the records, in BCDFGISSSV No.828/2015, dated 29.08.2015, passed by the 2nd Respondent, detaining the detenu, under Section 2(f) of the Tamil Nadu Act 14/1982, 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.

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.V.Devendhiran, 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 J2 Adayar Police Station Crime No.2229 of 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 J2 Adayar Police Station Crime No.2229 of 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 29.08.2015, 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)

सत्यमेव जयते

//True Copy//

To Sub Assistant Registrar

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

2.The Commissioner of Police,
Veppery, Chennai-7.

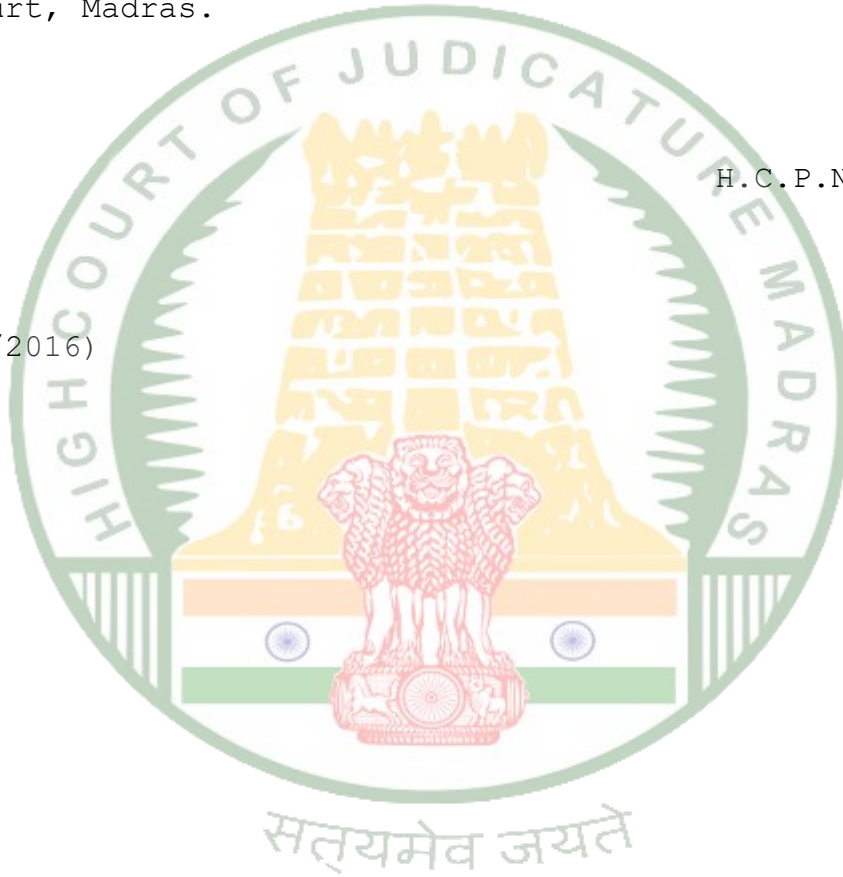
3.The Superintendent,
Central Prison,
Puzhal, Chennai.

4.The Joint Secretary to Government,
Public(Law & Order),
Fort Saint George, Chennai - 9.

5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.2228/2015

skv (CO)
srg (06/04/2016)



WEB COPY