

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2016

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN
and
THE HON'BLE MR.JUSTICE M.SATHYANANARAYANAN

H.C.P.No. 2414 of 2015

Moshin

... Petitioner

Vs.

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

2.Commissioner of Police
Chennai City.

... Respondents

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 27.07.2015 in BCDFGISSSV No.604/2015 against petitioner friend Logu @ Loganathan, male aged 23 years, S/o Shankar, who is confined at Central Prison, Puzhal, Chennai and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.D.Balaji

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

O R D E R

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

This Habeas Corpus Petition is filed, by the friend of the detenu, namely, Logu @ Loganathan, aged 23 years, S/o Sankar, to issue a Writ of Habeas Corpus, to call for the records, in BCDFGISSSV No.604/2015, dated 27.07.2015, 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.D.Balaji, 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 S-15 Selaiyur Police Station Crime No.1852 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 S-15 Selaiyur Police Station Crime No.1842 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 a 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 27.07.2015, 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.

Sd/-
सत्यमेव जयते

Assistant Registrar(CS III)

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Sub Assistant Registrar

gms

To

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

2.The Commissioner of Police
Chennai City.

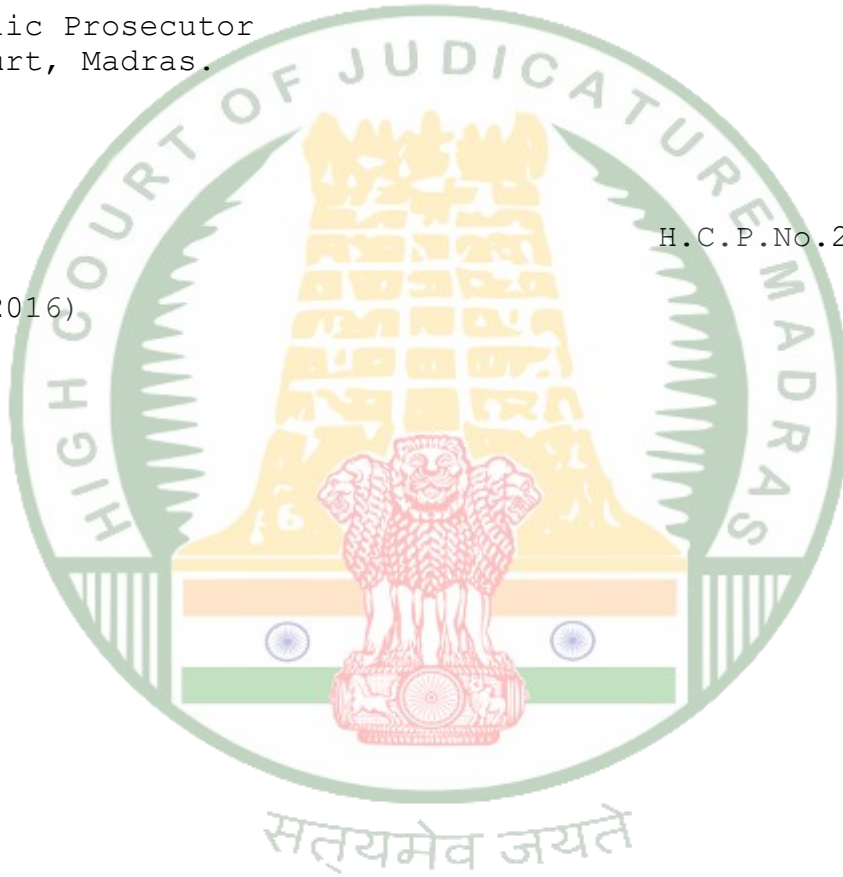
3.The Superintendent,
Central Prison,
Puzhal, Chennai.

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

5.The Public Prosecutor
High Court, Madras.

SVI (CO)
CA(07/04/2016)

H.C.P.No.2414 of 2015



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