

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.03.2016

CORAM:

THE HONOURABLE MR . JUSTICE M.JAICHANDREN

AND

THE HONOURABLE MR. JUSTICE S.NAGAMUTHU

H.C.P.No.2481 of 2015

P.Nagappan

... Petitioner

-Vs-

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

2.The Commissioner of Police
Greater Chennai
Vepery, Chennai.

... Respondents

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 2nd respondent herein in Detention Order No.910/2015 dated 10.09.2015 and setting aside the order of detention passed therein and setting the detenu P.Pandian, S/o Palani, 35 years, and set at liberty now detained in Central Prison, Puzhal II, Chennai.

For Petitioner : Mr.G.Saravana Kumar

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

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O R D E R

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

This Habeas Corpus Petition is filed, by the cousin of the detenu, namely, Pandian, aged 35 years, S/o Palani, to issue a Writ of Habeas Corpus, to call for the records, in Detention Order No.910/2015 dated 10.09.2015, 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, Sexual Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14/1982) 2(f) of the Tamil Nadu Act 14/1982, branding him as a "Goonda", as contemplated u/s 2(f) of the Tamil Nadu Act 14 of 1982, and to quash the same, produce him before this Court and to set him at liberty.

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.G.Saravana 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.6 Avadi Police Station Crime No.597 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 T.6 Avadi Police Station Crime No.597 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 10.09.07.2015, 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.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

gms

To

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

2.The Commissioner of Police
Greater Chennai
Veperiy, Chennai.

3.The Additional Public Prosecutor,
Madras High Court Chennai

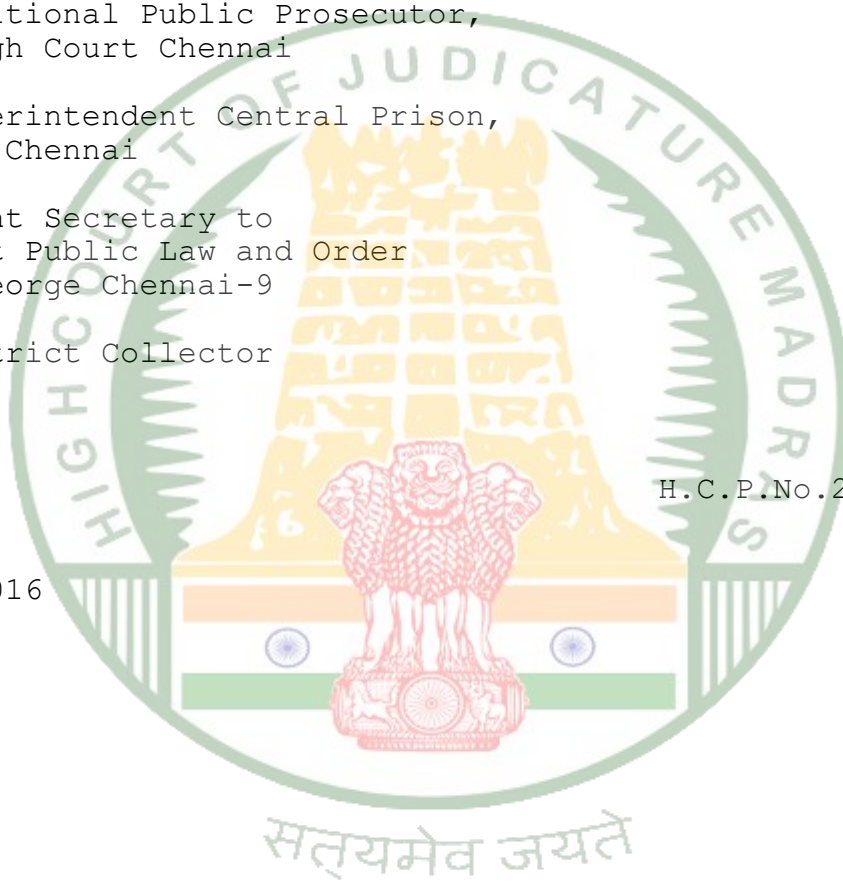
4.The Superintendent Central Prison,
Puzhal II Chennai

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

6.The District Collector
Chennai

H.C.P.No.2481 of 2015

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