

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.03.2016

CORAM

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

H.C.P.No.2654 of 2015

Kutty

..Petitioner

Vs.

1. The State of Tamil Nadu
rep. by its Secretary to Govt.,
Home, Prohibition and Excise Department
Chennai 600 009.
2. Commissioner of Police,
Chennai Police,
Chennai - 600 008.

..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 relating to the detenu's detention order passed by the 2nd respondent in his order in No. 724/2015 dated 13.08.2015 approved by the 1st respondent and set aside the same and produce the detenu Kutty, male, aged 28, son of Nataraj, now detained in Central Prison, Puzhal, Chennai, before the Hon'ble Court and set him at liberty.

For Petitioner :: Mr.N.S. Ashok Kumar
For Respondents :: Mr.A.N.Thambidurai,
Addl. Public Prosecutor

ORDER

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

This Habeas Corpus Petition is filed, by the detenu, namely, Kutty, S/o. Nataraj, to issue a Writ of Habeas Corpus, to call for the records, relating to the detention order in No. 724/2015, dated 13.08.2015, 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 set aside the same and to direct the respondents to produce the detenu 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.N.S. Ashok 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 applications had been filed by the detenu, in respect of Crime Nos.1272/2013, 236/2014, 244/2014 and 608/2014 on the file of V.3, J.J. Nagar Police Station. 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 Crime Nos. 1272/2013, 236/2014, 244/2014 and 608/2014 on the file of V.3, J.J. Nagar Police Station by filing bail applications 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 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 13.08.2015, 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 III)

//True Copy//

Sub Assistant Registrar

To

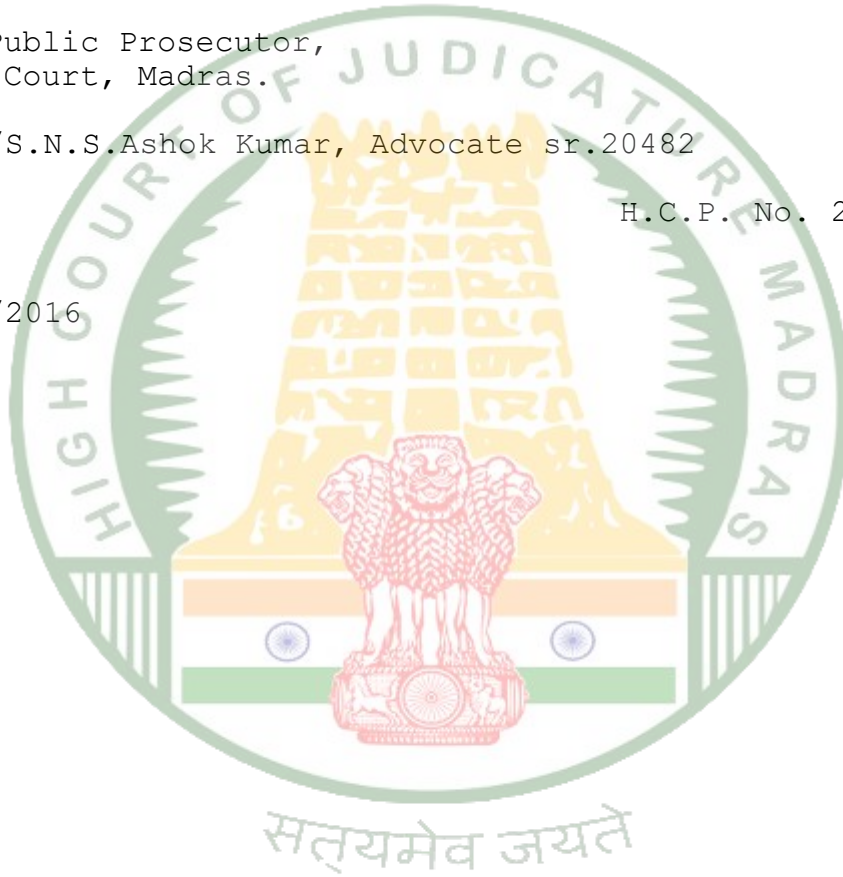
1. The Secretary to Govt.,
Home, Prohibition and Excise Department
Chennai 600 009.

2. Commissioner of Police,
Chennai Police,
Chennai - 600 008.
3. The Joint Secretary to Government,
Public(Law & Order),
Fort Saint George, Chennai - 9.
4. The Superintendent,
Central Prison,
Puzhal, Chennai.
5. The Public Prosecutor,
High Court, Madras.

+1cc to M/S.N.S.Ashok Kumar, Advocate sr.20482

H.C.P. No. 2654 of 2015

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