

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2016

CORAM

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

H.C.P.No.2664/2015

S.Rukmani

.. Petitioner

Vs

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

2.The Commissioner of Police,
Commissioner Office-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 entire records relating to the impugned order of detention passed by the 2nd respondent in Memo No.693/BCDFGISSSV/2015 dated 07.08.2015 and set aside the same and consequently, direct the respondents to produce the detenu Prakash, son of Subramani, petitioner's brother now confined at Central Prison, Puzhal, Chennai before this Court and set him at liberty forthwith.

For Petitioner : Mr.J.Prakash
For Respondents : Mr.A.N.Thambidurai
Additional Public Prosecutor

ORDER

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

The petitioner is the brother of the detenu-Prakash, son of Subramani, aged 24 years, who has been detained under Act 14 of 1982, on the orders of the second respondent, by his proceedings, in No.693 of 2015 dated 07.08.2015. Challenging the same, the petitioner is before this Court with this Habeas Corpus Petition.

2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the State and we have also perused the records carefully.

3. It is seen from the records that as against the detenu, there were five cases pending as follows:

(1) In K.9 Thiru.Vi.Ka.Nagar Police Station - Crime No.641 of 2015 and Crime No.660/2015;

(2) In K3 Aminjikarai Police Station-Crime No.164 of 2013;

(3) In F.2 Egmore Police Station - Crime No.1116 of 2015; and

(4) In V5 Thirumangalam Police Station - Cr.No.160 of 2013.

4. Admittedly, the detenu was arrested and remanded to judicial custody in respect of all the five cases. But, he was granted bail, only in connection with the cases, in K.3 Aminjikarai Police Station Crime No.164 of 2013 and V.5 Thirumangalam Police Station Crime No.160 of 2013. The detaining authority had not considered that there was no bail granted to the detenu in connection with the other three cases. He has stated that there was imminent possibility of the detenu coming out on bail. It is not known as to how the detaining authority had come to such a conclusion, without considering the fact that, the detenu was in judicial remand in connection with three other cases. This only shows the non-application of mind, on the part of the detaining authority. Therefore, the detention order is liable to be quashed.

5. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 07.08.2015, 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(CO)

//True Copy//

Sub Assistant Registrar

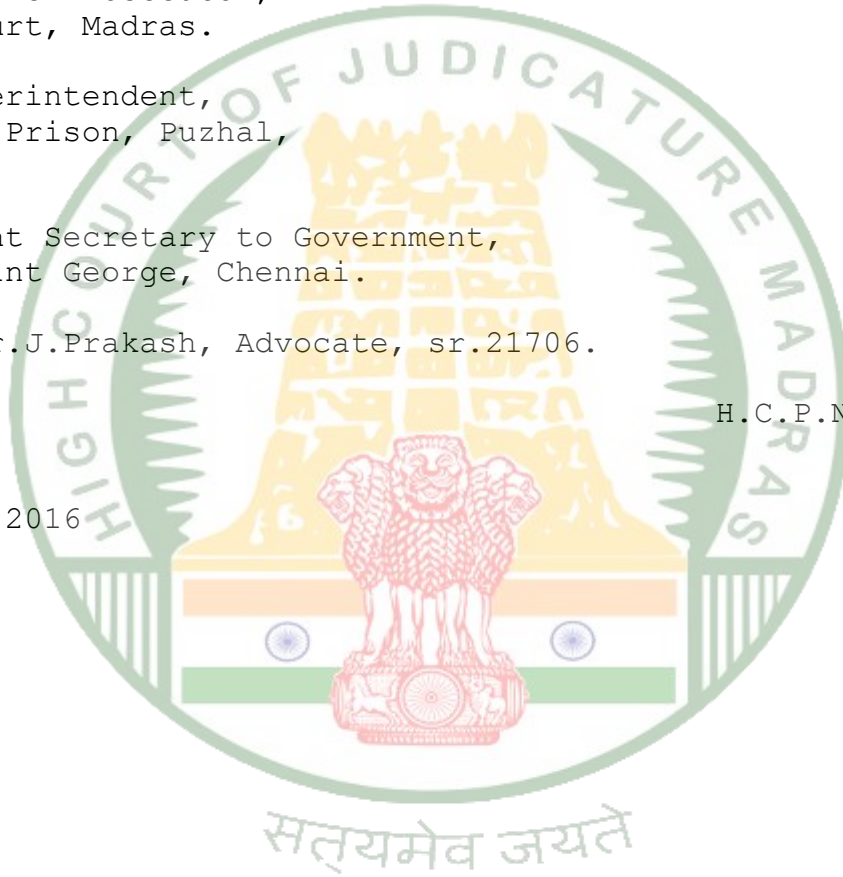
tsi

To

- 1.The Secretary to Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Fort St.George,
Chennai-600 009
 - 2.The Commissioner of Police,
Commissioner Office-Greater Chennai,
Vepery, Chennai-600 007
 - 3.The Public Prosecutor,
High Court, Madras.
 - 4.The Superintendent,
Central Prison, Puzhal,
Chennai.
 - 5.The Joint Secretary to Government,
Fort Saint George, Chennai.
- 1 cc to Mr.J.Prakash, Advocate, sr.21706.

H.C.P.No.2664/2015

scd co
kra 29.04.2016



WEB COPY