

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.2734 of 2015

Inbanayagam

..Petitioner

Vs.

1. The Secretary to the Govt.,
Home, Prohibition and Excise Department
Secretariat, Chennai 600 009.
2. The 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 in connection with the order of detention passed by the 2nd respondent dated 26.09.2015 in BCDFGISSSV No. 1020/2015 against the brother of the petitioner, detenu Selvanayagam M/A 44, S/o. Deivasagayam, who is confined at Central Prison, Puzhal, Chennai and to set aside the same and consequently direct the respondents to produce the detenu before the Hon'ble Court and set him at liberty.

For Petitioner :: Mr.K.S. Kavaiarasu

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 brother of the detenu, namely, Selvanayagam, S/o. Deivasagayam, to issue a Writ of Habeas Corpus, to call for the records, relating to the detention order in BCDFGISSSV No. 1020/2015 dated 26.09.2015, 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.K.S. Kaviarasu, 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 filed by the detenu, in respect of Crime No.3430 of 2015 on the file of R-1, Mambalam 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 No. 3430/2015 on the file of R-1 Mambalam 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 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 26.09.2015, 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.

सत्यमेव जयते

Sd/-
Assistant Registrar(CCC)

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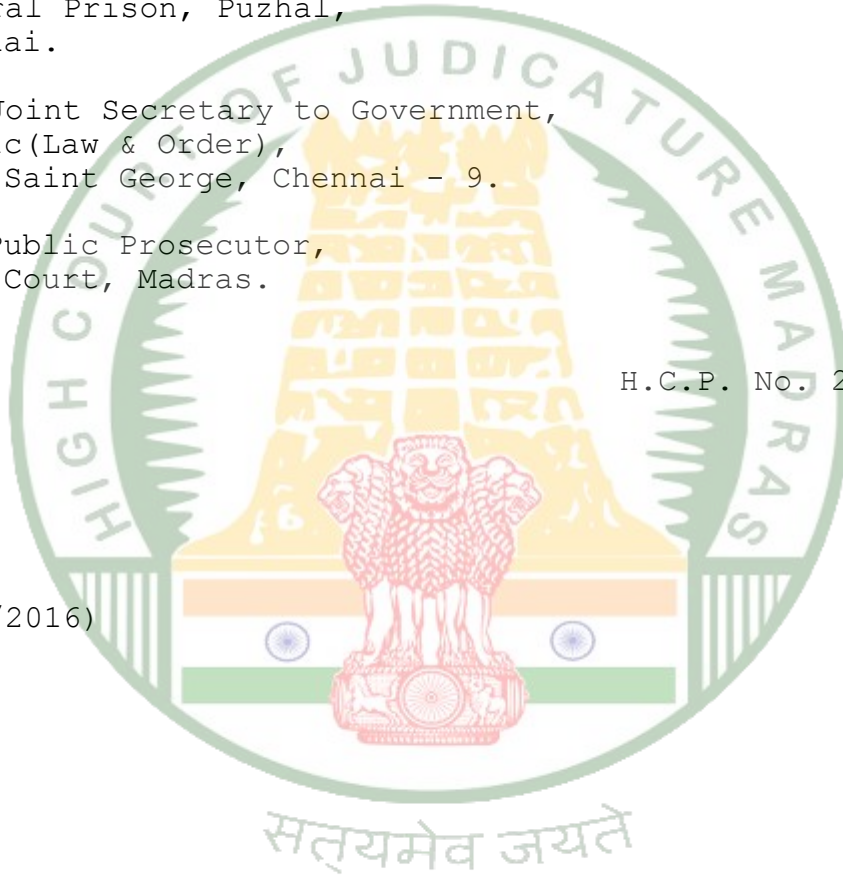
Sub Assistant Registrar

To

1. The Secretary to Govt.,
Home, Prohibition and Excise Department
Secretariat, Chennai 600 009.
2. Commissioner of Police,
Chennai Police,
Chennai - 600 008.
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. 2734 of 2015

scd(CO)
srg(27/04/2016)



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