

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2016

CORAM:

THE HONOURABLE MR. JUSTICE M.JAICHANDREN
AND
THE HONOURABLE MR. JUSTICE S.NAGAMUTHU

H.C.P.No.2736 of 2015

Radha

... Petitioner

-Vs-

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

2.The Commissioner of Police
Chennai Police
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 in connection with the order of Detention passed by the 2nd respondent dated 30.09.2015 in BCDFGISSSV No.1066/2015 against the son of the petitioner, detenu Naresh @ Nari, M/A 24, S/o Gopinath, who is confined at Central Prison, Puzhal, Chennai and to set aside the same and consequently direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.K.S.Kaviarasu

For Respondents : Mr.A.N.Thambidurai
Additional 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 mother of the detenu, namely, Naresh @ Nari, aged 24 years, S/o Gopinath, to issue a Writ of Habeas Corpus, to call for the records, in BCDFGISSSV No.1066/2015 dated 30.09.2015, 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) 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.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 moved on behalf of the detenu, in V-4 Rajamangalam Police Station Crime No.656 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 V-4 Rajamangalam Police Station Crime No.656 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 30.09.2015, 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.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

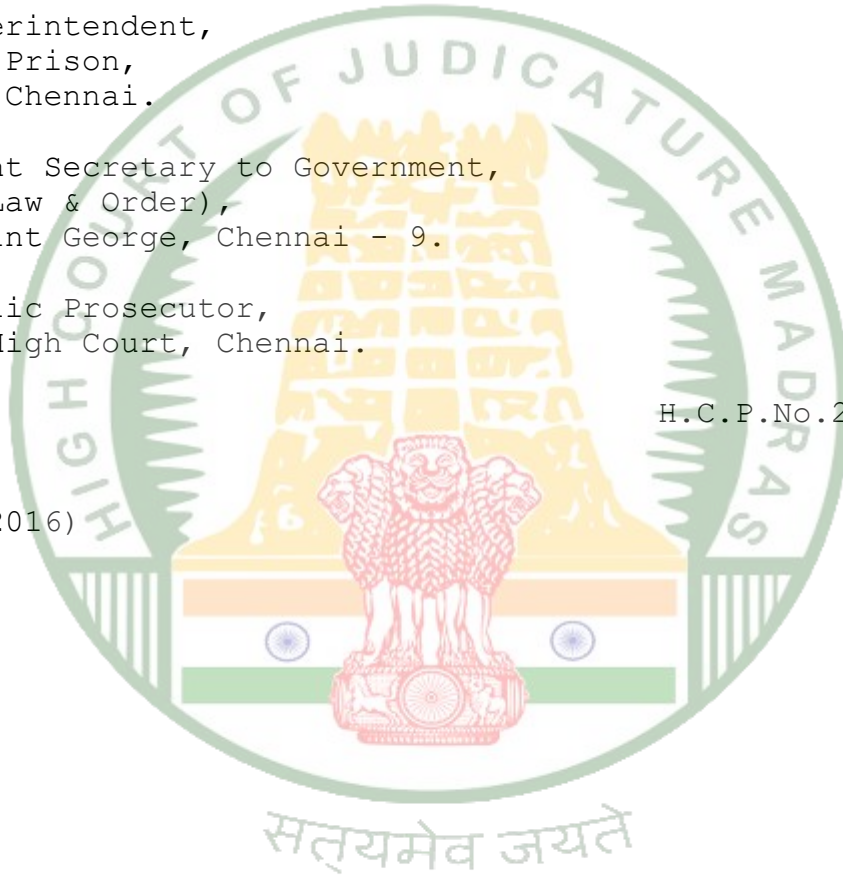
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To

- 1.The Secretary to the Government
Home Prohibition & Excise Department
Secretariat
Chennai 600 009.
- 2.The Commissioner of Police
Chennai Police
Chennai.
- 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,
Madras High Court, Chennai.

H.C.P.No.2736 of 2015

LRS (CO)
CA(25/05/2016)



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