

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.2791 of 2015

M.Bakyalakshmi

... Petitioner

-Vs-

- 1.The Government of Tamil Nadu
rep by its Secretary,
Home, Prohibition and Excise (XVI) Department
Fort St.George
Chennai 600 009.
 - 2.The District Magistrate and District Collector
Office of the District
Magistrate and District Collector
Tiruppur District.
- ... 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 detention order in Cr.M.P.No.19/Goonda/2015 dated 30.09.2015, on the file of the 2nd respondent, quash the same, and direct the respondents herein to produce the body of the petitioner's husband Muthu @ Muthusamy, aged about 40 years, the detenu now confined in Central Prison, Coimbatore before this Court and set him at liberty.

For Petitioner : Mr.R.Vijayakumar

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 has been filed by the wife of the detenu, to issue a Writ of Habeas Corpus, calling for the records relating to the impugned order passed by the 2nd respondent in Cr.M.P.No.19/Goonda/2015 dated 30.09.2015, detaining the detenu, namely Muthu @ Muthusamy @ Attacksamy @ Thirumurthy, aged about 40 years, S/o Duraisamy, 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. Even though the learned counsel for the petitioner had raised many grounds in assailing the impugned order of detention in the present petition, he has focused his argument on the ground that, in Cr.No.481 of 2015, the bail application filed by him had been dismissed by the learned Principal Sessions Judge, Tiruppur, in Cr.M.P.No.1036 of 2015, on 10.09.2015, and thereafter, no application was filed by him, seeking bail. When that be so, the satisfaction arrived at by the detaining authority, that there is likelihood of the detenu coming out on bail is absolutely baseless.

3. We have considered the above submissions.

4. As rightly pointed out by the learned counsel for the petitioner, from paragraph 5 of the detention order, it is crystal clear that the detenu had not filed any application seeking bail, after the dismissal of Cr.M.P.No.1036 of 2015, in Cr.No.481 of 2015. When that be so, it is not explained to the Court as to how the detaining authority has come to the conclusion that there was real possibility of the detenu coming out on bail. This shows the predetermined mind of the detaining authority. In such view of the matter, the impugned detention order is liable to be quashed.

5. Accordingly, the habeas corpus petition is allowed and the detention order, dated 30.09.2015, passed by the 2nd respondent is quashed. The detenu is directed to be set at liberty, forthwith, unless his presence is required in connection with any other case.

Sd/-

Assistant Registrar (CS VII)

/true copy/

Sub Assistant Registrar

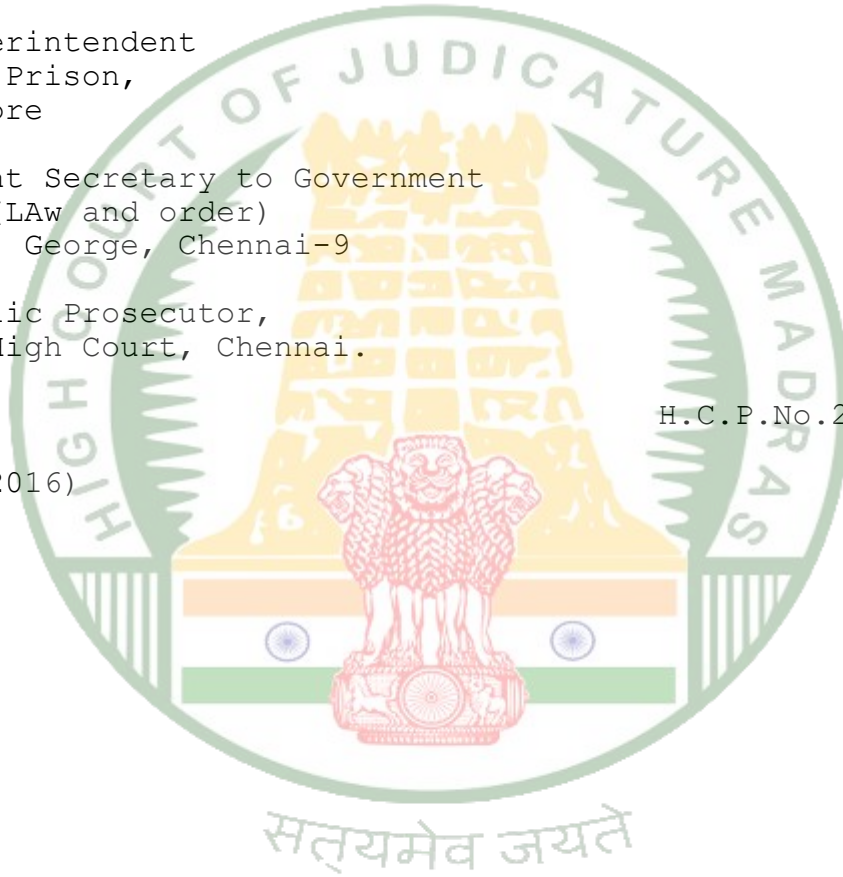
gms

To

- 1.The Secretary to Government
Government of Tamil Nadu
Home, Prohibition and Excise (XVI) Department
Fort St.George
Chennai 600 009.
- 2.The District Collector
Office of the District Collector
Tiruppur District.
- 3.The Superintendent
Central Prison,
Coimbatore
- 4.The Joint Secretary to Government
Public (Law and order)
Fort St. George, Chennai-9
- 5.The Public Prosecutor,
Madras High Court, Chennai.

H.C.P.No.2791 of 2015

AK(CO)
CA(29.04.2016)



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