

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.03.2016

CORAM:

THE HONOURABLE MR . JUSTICE M.JAICHANDREN

AND

THE HONOURABLE MR. JUSTICE S.NAGAMUTHU

H.C.P.No.2805 of 2015

V.Subhasree

... Petitioner

-Vs-

1.State of Tamil Nadu,
Rep. By its Secretary to Government,
Prohibition & Excise Department,
Secretariat, Fort St. George,
Chennai - 600 009.

2.The Commissioner of Police,
Greater Chennai,
E.V.R Periyar Salai,
Vepary,
Chennai - 600 007.

.... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, to produce the body of Tr.Janarthanan, who is detained in Central Prison II, Puzhal, before this Court, and set him at liberty forthwith, by calling for the records, pursuant to the detention order, dated 29.09.2015, made in Memo No.1037/BCDFGISSSV/2015, on the file of the second respondent herein and quash the same.

For Petitioner : Mr.N.Saravanan

For Respondents : Mr.A.N.Thambidurai
Addl. Public Prosecutor

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, namely, Janarthanan, Male, aged 58 years, S/o Parameshwaran, to issue a Writ of Habeas Corpus, to call for

the records, in Memo No.1037/BCDFGISSSV/2015, dated 29.09.2015, passed by the second 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) 2(f) of the 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. Even though several grounds have been raised in assailing the impugned order of detention in the petition, the learned counsel for the petitioner would submit that, in paragraph 4 of the detention order, dated 29.09.2015, it has been stated that the petition filed by the detenu seeking bail in Central Crime Branch X Cr.No.12/2015, was pending and though, it is stated that in similar case in Central Crime Branch X Crime No.498/2010, bail was granted and thus, there was likelihood of the detenu coming out on bail immediately in Central Crime Branch X Cr.No.12/2015, the said conclusion is not correct.

4. We have perused the records. It is seen that Central Crime Branch X Cr.No.12/2015 involves offences under Sections 420 r/w 34 I.P.C., whereas, the offence involved in Central Crime Branch X Crime No.498/2010 is under Sections 468, 420 r/w 34 IPC. Thus, the two cases are dissimilar. When that be so, the subjective satisfaction arrived at by the detaining authority that there is likelihood of the detenu coming out on bail, is based on no materials. In such view of the matter, the detention order is liable to be quashed.

5. Accordingly, the habeas corpus petition is allowed and the detention order in Memo No.1037/BCDFGISSSV/2015 dated 29.09.2015, passed by the second 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 III)

//True Copy//

Sub Assistant Registrar

To

1. Secretary to Government,
Prohibition & Excise Department,
Secretariat, Fort St. George,
Chennai - 600 009.

2. The Commissioner of Police,
Greater Chennai,
E.V.R Periyar Salai,
Vepary,
Chennai - 600 007.

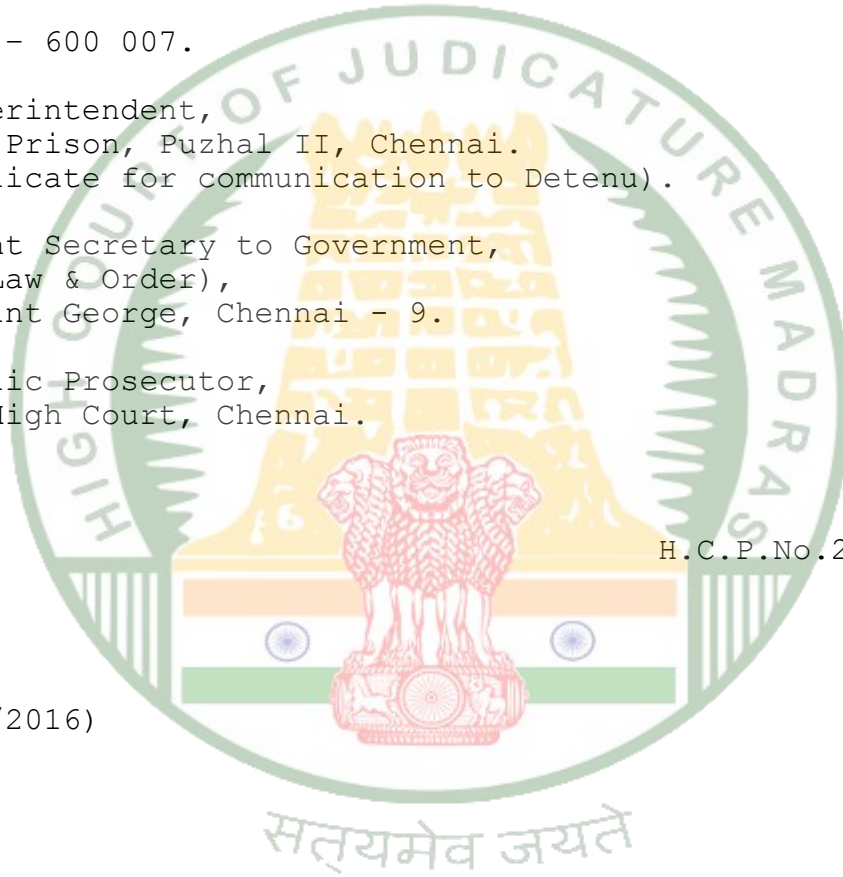
3. The Superintendent,
Central Prison, Puzhal II, Chennai.
(In duplicate for communication to Detenu).

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.2805 of 2015

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



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