

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.2829 of 2015

K.Naveendran

... Petitioner/Brother of the
detenu

-Vs-

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Government of Tamil Nadu,
Fort St. George, Chennai - 9.

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 relating to the order of detention passed by the second respondent herein in his proceedings dated 30.09.2015 in BCDFGISSSV.No.1054/2015 branding him as "GOONDA" under the Tamil Nadu Act 14 of 1982 and quash the same and direct the respondents to produce the body of the detenu namely Prasanth son of Kumar, who is now confined in Central Prison, Puzhal, Chennai before this Court and set him at liberty.

For Petitioner : Mr.R.Kandasamy

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 is filed, by the brother of the detenu, namely, Prasanth, aged 23 years, S/o Kumar, to issue a Writ of Habeas Corpus, to call for the records, in Detention

Order No.BCDFGISSSV No.1054/2015 dated 30.09.2015, 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. Though, several grounds have been raised in this Habeas Corpus Petition, Mr.R.Kandasamy, 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 the bail application moved in J-11 Kannaki Nagar Police Station Cr.No.2251/2015 on behalf of the detenu, was dismissed by the learned District Principal Sessions Judge, Chengalpattu in CrI.M.P.No.2271/2015 on 20.08.2015 and thereafter, no bail application was filed on behalf of the detenu. 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 J-11 Kannaki Nagar Police Station Cr.No.2251/2015, 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.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1.The State of Tamil Nadu
rep by its Secretary to Government
Home Prohibition & Excise Department
Secretariat, Chennai 600 009.

2.The Commissioner of Police
Greater Chennai
Vepery, Chennai.

3.The Public Prosecutor,
Madras High Court, Chennai.

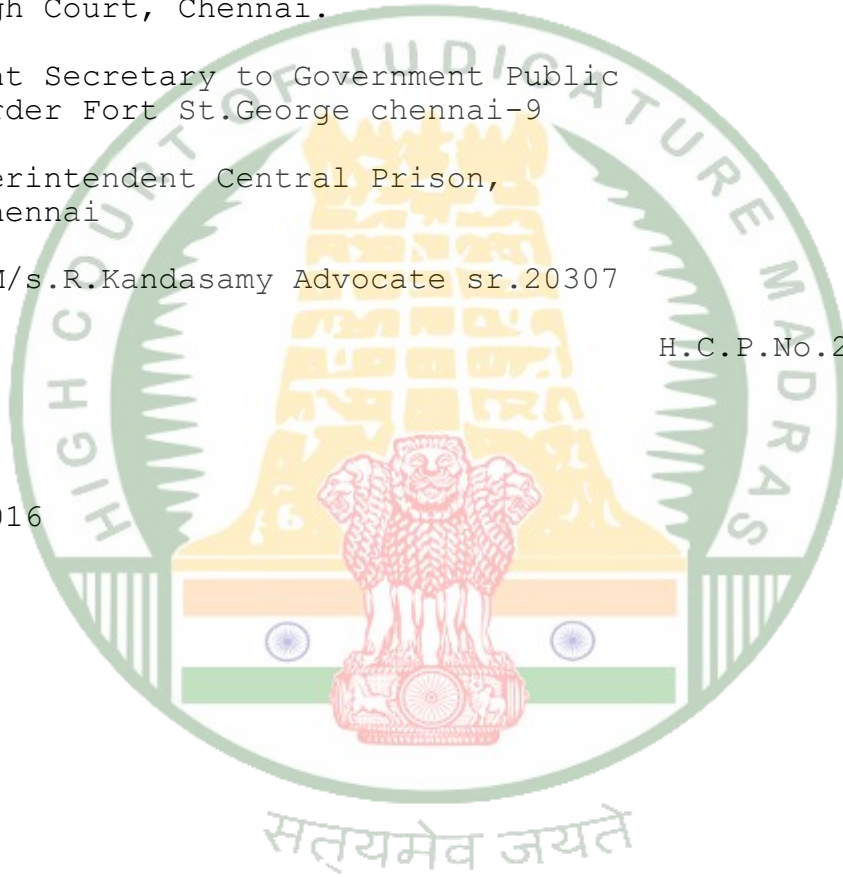
4.The Joint Secretary to Government Public
Law and Order Fort St.George chennai-9

5.The Superintendent Central Prison,
Puzhal, chennai

+2 cc to M/s.R.Kandasamy Advocate sr.20307

H.C.P.No.2829 of 2015

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