

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2016

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN
and
THE HON'BLE MR.JUSTICE S.NAGAMUTHU

H.C.P.No.2899/2015

Amithabi .. Petitioner

Vs

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai-600 009

2.The Commissioner of Police,
Greater Chennai,
Vepery, Chennai-600 007 ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS calling upon the production of records relating to the detention order dated 26.10.2015 made in Detention Order Memo No.1112/BCDFGISSSV/2015 passed by the 2nd respondent herein, quash the same and direct the respondents to produce the body or person of the petitioner's brother Maboobasha, son of Khadar Basha, aged about 54 years, branded as Goonda and now confined in Central Prison, Puzhal, Chennai before this Court and set him at liberty forthwith.

For Petitioner : Mr.D.Gopi Krishnan

For Respondents : Mr.A.N.Thambidurai,
Additional 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, Maboobasha, son of Khadar Basha, aged about 54 years, praying that this Court may be pleased to issue a Writ of Habeas Corpus, to call for the records, in Memo

No.1112/BCDFGISSSV/2015, dated 26.10.2015, 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, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14/1982), the Tamil Nadu Act 14 of 1982, branding him as a "Goonda", in the Central Prison, Puzhal, Chennai, and to quash the same and to direct the Respondents to produce the body of the detenu 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 on behalf of the State and we have also perused the records carefully.

3. Though, several grounds have been raised, in this Habeas Corpus Petition, Mr.D.Gopi Krishnan, 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 R.1 Mambalam Police Station Crime Nos.1391, 2684, 2844 and 3096 of 2015. However, it had been stated that the relatives of the detenu are taking action to take him out on bail, in R.1 Mambalam Police Station Crime Nos.1391, 2684, 2844 and 3096 of 2015, 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 cases. 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 26.10.2015, 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 (AS)

//True Copy//

Sub Assistant Registrar

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To

1.The Secretary to Government
The State of Tamil Nadu
Home, Prohibition and Excise Department
Fort St.George
Chennai 600 009.

2.The Commissioner of Police,
Vepery, Chennai.

3.The Superintendent of Police,
Central Prison, Puzhal, Chennai.

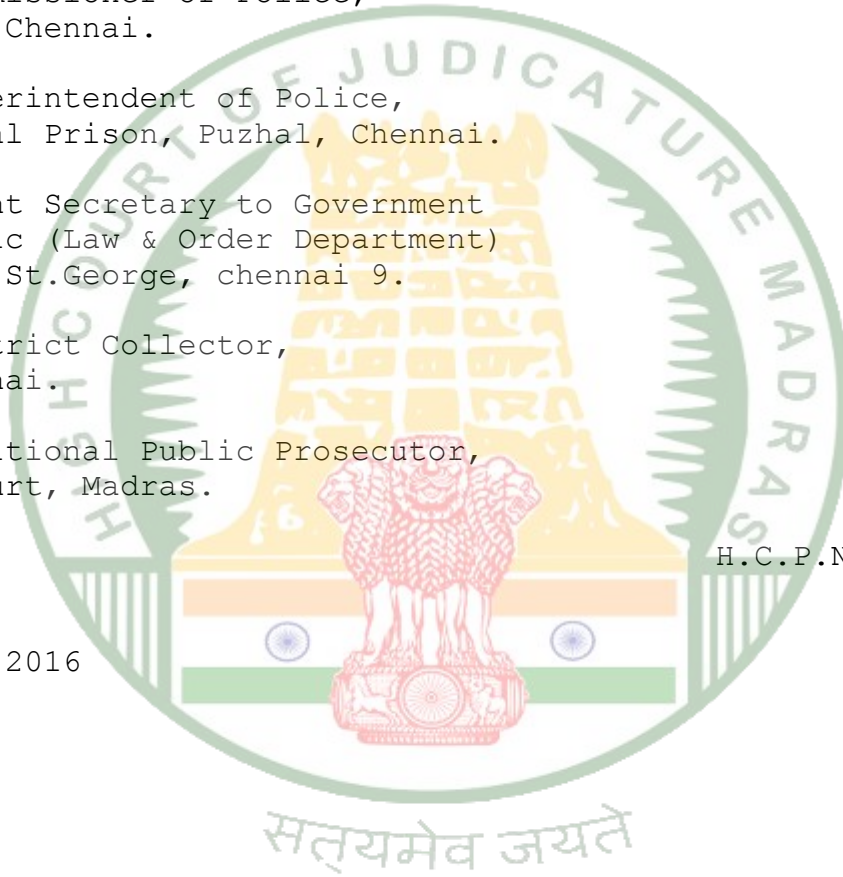
4.The Joint Secretary to Government
Public (Law & Order Department)
Fort St.George, chennai 9.

5.The District Collector,
Chennai.

6.The Additional Public Prosecutor,
High Court, Madras.

H.C.P.No.2899/2015

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