

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.03.2016

CORAM

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

H.C.P.No.2913/2015

Mariyamma

..... Petitioner

Vs

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

2.The Commissioner of Police,
Veppery, Chennai

... Respondents

Prayer: 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 detenu's detention order passed by the 2nd respondent dated 30.04.2015, in No.367/BDFGISSSV/2015, and set aside the same and produce the detenu MURUGAN @ NEERAVI, MURUGAN @ MADHAN @ SURESH @ DEEPAK @ MURUGESH @ NALAN, male aged 35, son of Arumugam, now detained in Central Prison-II, Puzhal, Chennai.

For Petitioner : Mr.Mohammed Aasif

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, Mr.Murugan @ Neeravi Murugan @ Madhan @ Suresh @ Deepak @ Murugesh @ Nalan, aged 35 years, Son of Mr.Arumugam, to issue a Writ of Habeas Corpus, to call for the records, in BCDFGISSSV No.367/2015, dated 30.04.2015, 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 II, 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.Mohammed Aasif, 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 J-9 Thuraipakkam Police Station Crime No.233 of 2015. However, it had been stated that the relatives of the detenu are taking action to take him out on bail, in J-9 Thuraipakkam Police Station Crime No.233 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 30.04.2015, 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-VII)

//True Copy//

Sub Assistant Registrar

msk

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.

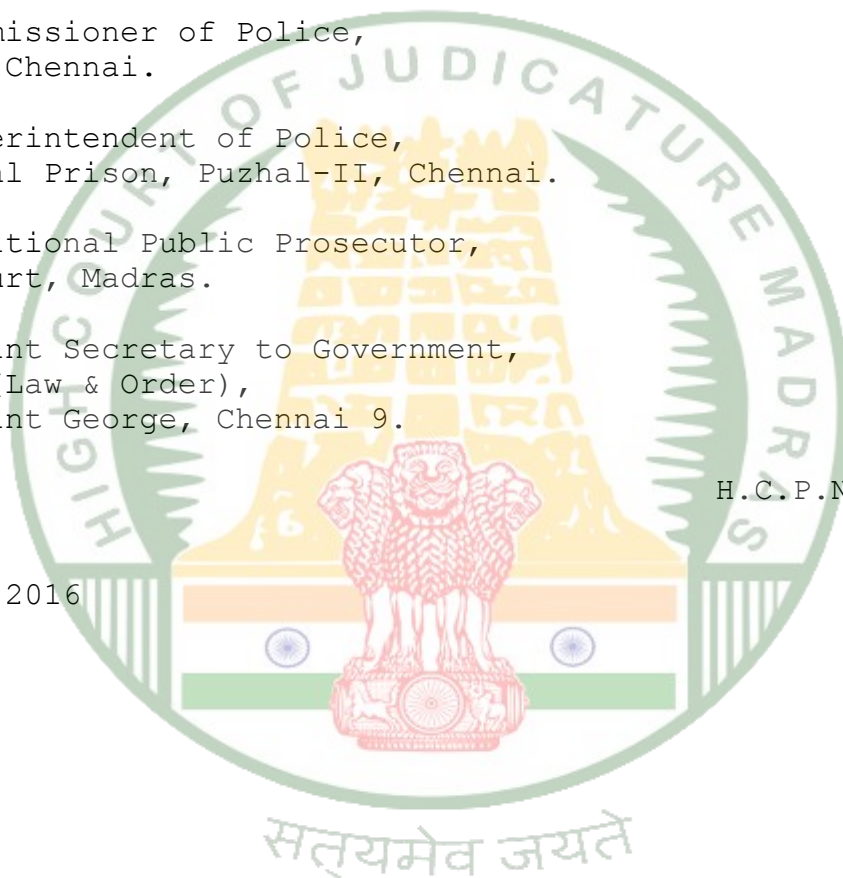
3.The Superintendent of Police,
Central Prison, Puzhal-II, Chennai.

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

5. The Joint Secretary to Government,
Public (Law & Order),
Fort Saint George, Chennai 9.

H.C.P.No.2913/2015

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