

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.2942/2015

K.Sundarambal .. Petitioner

Vs

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai-600 009
- 2.The District Collector and District Magistrate,
Namakkal District,
Namakkal. .. 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 10.08.2015 made in C.M.P.No.48/Goonda/2015/M1 dated 10.08.2015 passed by the 2nd respondent herein, quash the same and direct the respondents to produce the detenu before this Court and set the detenu Thiru Selvakumar, son of Palaniappan, aged about 43 years, branded as Goonda and now confined in Central Prison, Salem, before this Court and set him at liberty forthwith.

For Petitioner : Mr.M.Elango

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 wife of the detenu, namely, Selvakumar, son of Palaniappan, aged 43 years, praying that this Court may be pleased to issue a Writ of Habeas Corpus, to call for the records, in C.M.P.No.48/Goonda/2015/M1, dated 10.08.2015, 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, Salem, 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.M.Elango, 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 Vennathur Police Station Crime No.120 of 2015. However, it had been stated that the wife of the detenu is taking action to take him out on bail, in Vennathur Police Station Crime No.120 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 wife of the detenu, to substantiate the claim that she is 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 10.08.2015, 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/-

Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

tsi

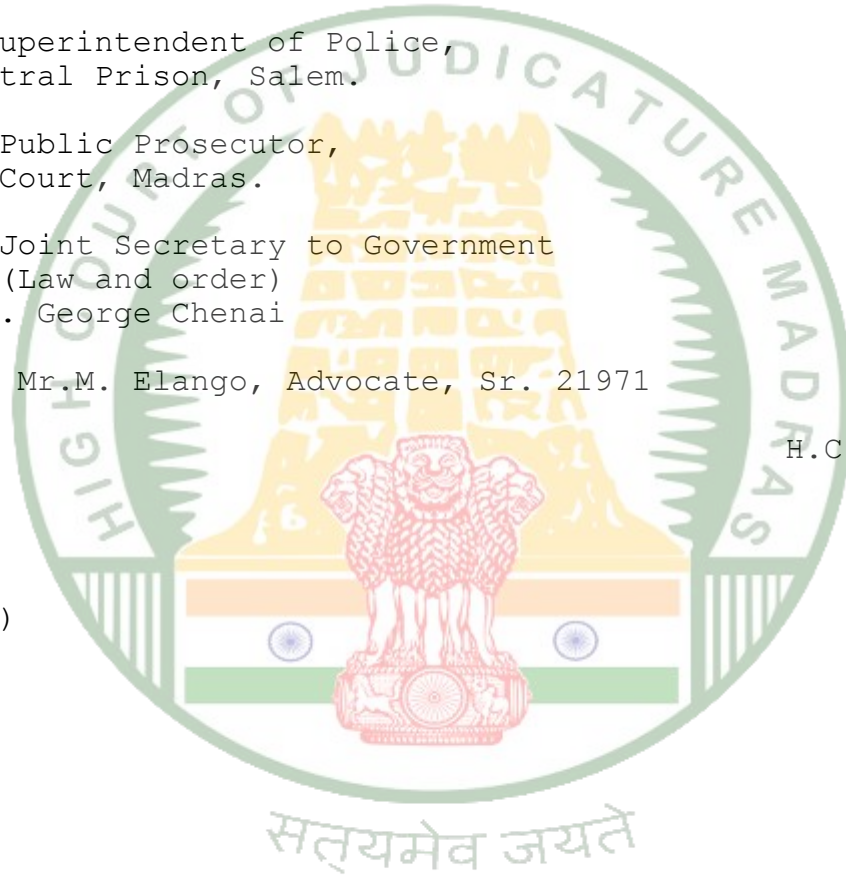
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To

- 1.The Secretary to Government
The State of Tamil Nadu
Home, Prohibition and Excise Department
Fort St.George
Chennai 600 009.
 - 2.The District Collector and District Magistrate,
Namakkal District,
Namakkal.
 - 3.The Superintendent of Police,
Central Prison, Salem.
 - 4.The Public Prosecutor,
High Court, Madras.
 5. The Joint Secretary to Government
Public (Law and order)
Fort St. George Chennai
- 1 cc to Mr.M. Elango, Advocate, Sr. 21971

H.C.P.No.2942/2015

SCD (CO)
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