

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2016

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN
AND
THE HON'BLE MR.JUSTICE S.BASKARAN

H.C.P.NO.1136 OF 2016

Soori @ Sooriyamoorthy

... Petitioner

Vs.

1. State of Tamil Nadu
Represented by Secretary to Government
Home, Prohibition and Excise Department
Fort St. George, Chennai - 600 009.
2. The Commissioner of Police
Salem Police,
Salem District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS directing the respondents to produce the petitioner's son by name Moses @ Kuttiappan @ Manivannan, Son of Soori @ Sooriyamoorthy, aged 27 years before this Court now confined in Central Prison, Salem, set him at liberty and to call for the records pertaining to the order of detention passed in C.M.P.No.34/GOONDA/Salem City/2016 dated 02.05.2016 passed by the second respondent and set aside the same.

For Petitioner : Ms.L.Srileka

For Respondents : Mr.V.M.R.Rajentren
Additional 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 father of the detenu namely, Moses @ Kuttiappan @ Manivannan, Son of Soori @ Sooriyamoorthy, aged 27 years, to issue a Writ of Habeas Corpus, to call for the records, in Detention Order C.M.P.No.34/GOONDA/Salem City/2016, dated 02.05.2016, passed by the second respondent, detaining the detenu, under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest

Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982) branding him as a "Goonda", who is now detained in the Central Prison, Salem, and to quash the same and to direct the respondents to produce him before this Court 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 for the State and we have also perused the records carefully.

3. Though, several grounds have been raised in this Habeas Corpus Petition, Ms.L.Srileka, learned counsel appearing on behalf of the petitioner, has assailed the impugned detention order mainly on the ground that the detaining authority had stated, in paragraph no.5 of the detention order, that the relatives of the detenu are taking action to take him out on bail, in Hasthampatty Police Station Crime Nos.74/2016 and 75/2016, by filing bail applications before the appropriate Court. However, it had been pointed out that no statements had been recorded from the relatives of the detenu with regard to the claim that they are taking steps to move bail applications, on behalf of the detenu and no such statements had been furnished to the detenu.

4. The said submissions made by the learned counsel appearing on behalf of the petitioner, had not been refuted by the learned Additional Public Prosecutor.

5. 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 applications 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.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 02.05.2016, 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 VI)

//True Copy//

Sub Assistant Registrar

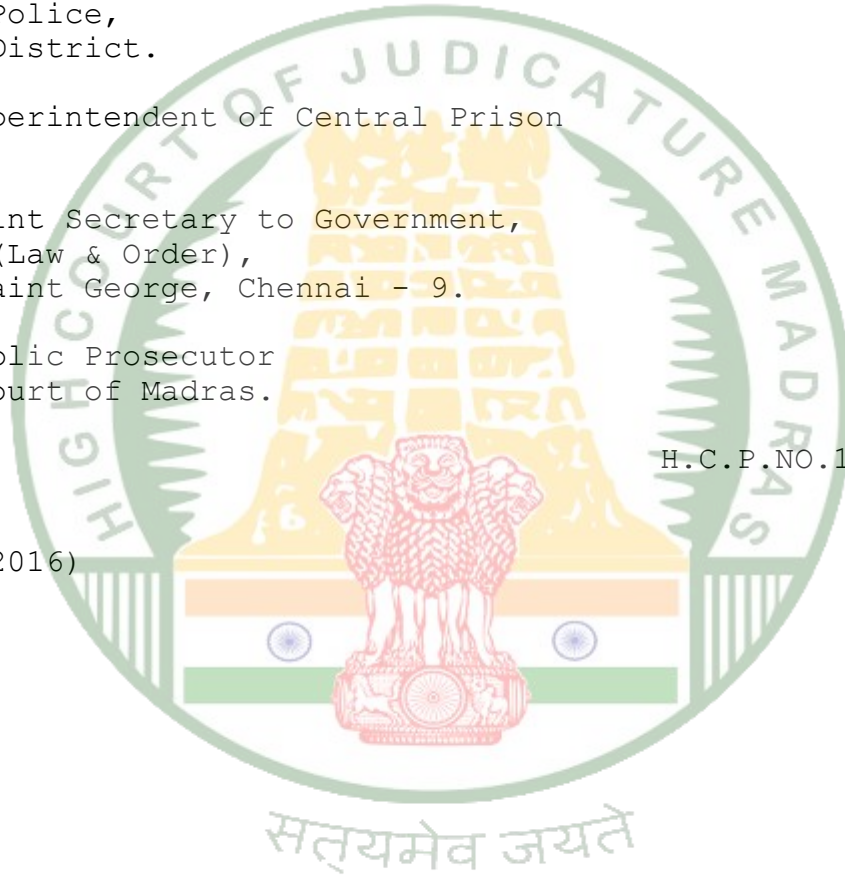
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To

1. The Secretary to Government
Government of Tamil Nadu
Home, Prohibition and Excise Department
Fort St. George,
Chennai - 600 009.
2. The Commissioner of Police
Salem Police,
Salem District.
3. The Superintendent of Central Prison
Salem.
4. The Joint Secretary to Government,
Public(Law & Order),
Fort Saint George, Chennai - 9.
5. The Public Prosecutor
High Court of Madras.

H.C.P.NO.1136 OF 2016

MG(CO)
CA(19/12/2016)



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