

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.6.2016

CORAM

THE HON'BLE MR.JUSTICE S.NAGAMUTHU
and
THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

H.C.P.No.114/2016

Palaniammal

.. Petitioner

Vs

1. State of Tamil Nadu,
Rep. by its Secretary,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai-600 009.

2. Office of the District Magistrate and District Collector,
Salem District. .. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, calling for the records relating to the order of detention C.M.P. NO. 51/B.L.A./C2/2015 dated 28/11/2015 passed by the 2nd respondent and to quash the same and also to direct the detainee PALANI S/O. NADUTHAMBI who is presently detained in the Central Prison SALEM to be produced before this Hon'ble court and set at liberty.

For Petitioner : Mr.Udaykumar
For Respondents : Mr.A.N.Thambi Durai,
Additional Public Prosecutor

ORDER

[Order of the Court was made by S.NAGAMUTHU,J]

The petitioner is the wife of one Palani, son of Naduthambi, who has been lodged in Central Prison, Salem, as per the orders of the 2nd respondent by his Proceedings in C.M.P.No.51/B.L.A/C2/2015, dated 28.11.2015 made under Section 2 (b) of the Tamil Nadu Act 14 of 1982 branding him as a 'Bootlegger'. Challenging the same, the petitioner is before this Court with this Habeas Corpus Petition.

2. We have heard the learned Counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondents and we have also perused the records carefully.

3. Though several grounds have been raised by the petitioner, the learned counsel for the petitioner would confine his argument on the ground that there is total non application of mind on the part of the Detaining Authority while passing the detention order. He would point out that in connection with Cr.No.520 of 2015, a case is registered under Section 4(1)(i), 4(1)(aaa), r/w. 4(1-A) of Tamil Nadu Prohibition Act. The petition seeking bail filed by the petitioner was pending before this Court. But the Detaining Authority has referred to an order granting bail passed by the learned Principal Sessions Judge, Salem in Cr.No.335/2015 under Section 4(1)(aaa), 4(1-A) of the Tamil Nadu Prohibition Act and came to a conclusion that the detenu in this case was likely to be released on bail.

4. We have considered the said submission and the satisfaction arrived at by the Detaining Authority that the detenu was likely to be released on bail which is based on the bail order granted by the learned Principal Sessions Judge, Salem whereas the petition filed by the petitioner seeking bail is pending before this Court, in our considered view, is not out of application of mind.

5. In view of the above, we are inclined to quash the order of detention.

6. Accordingly, the habeas corpus petition is allowed and the detention order passed by the second respondent is quashed. The detenu is directed to be set at liberty, forthwith, unless his presence is required in connection with any other case.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
Prohibition and Excise Department,
Secretariat, Chennai-9.

2. The District Magistrate and District Collector,
Salem District.

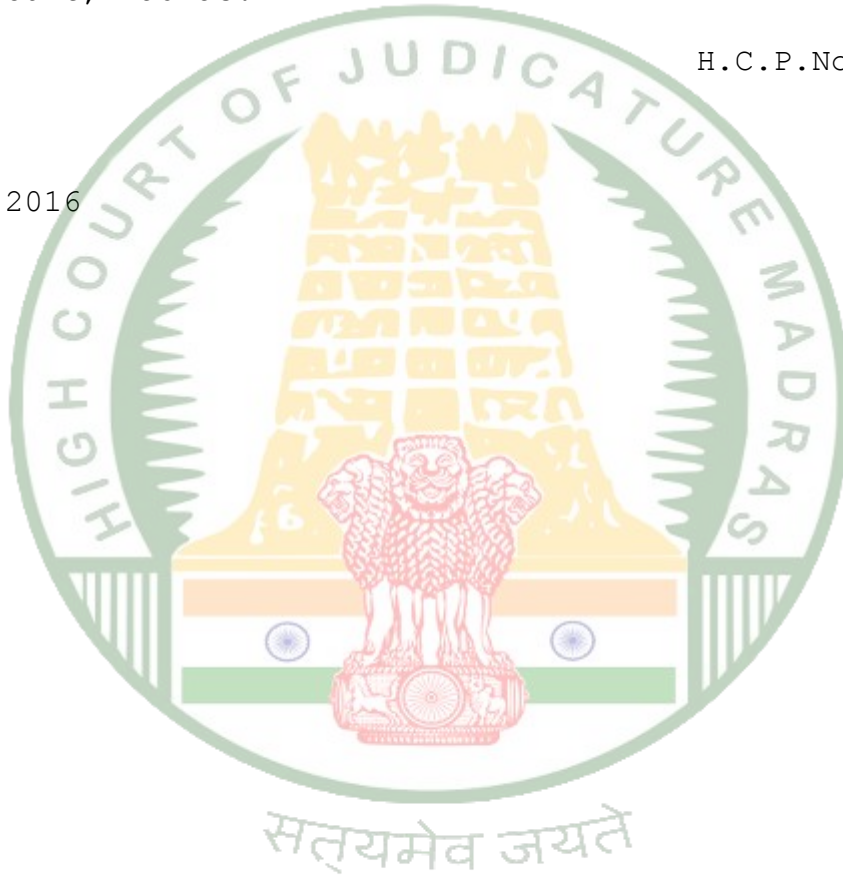
3. The Superintendent of Police,
Central Prison, Salem.

4. The Joint Secretary to Government,
Public (Law and Order),
Fort St. George, Chennai.

5. The Public Prosecutor,
High Court, Madras.

H.C.P.No.114/2016

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kra 23.06.2016



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