

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2016

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN
and
THE HON'BLE MR.JUSTICE T.MATHIVANAN

H.C.P.No.1183 of 2016

Nallayee .. Petitioner

Vs

1. The State of Tamil Nadu,
rep by the Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai-600 009.
2. The District Magistrate /District Collector,
Namakkal District, Namakkal.
3. The Inspector of Police,
Namagiri Pettai Police Station,
Namagiri Pettai,
Namakkal District. ... 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 detention order, dated 28.4.2016, passed by the second respondent, in C.M.P.No.14/Goonda/2016/M1, to quash the same and to direct the respondents to produce the petitioner's grand son Sivakumar, son of Marappan, aged about 31 years, who is presently undergoing detention, in the Central Prison, Salem, before this Court and to set him at liberty, forthwith.

For Petitioner : Mr.S.Balasubramanian

For Respondents : Mr.V.M.R.Rajentran, APP

ORDER

This Habeas Corpus Petition has been filed by the grand mother of the detenu, namely, Sivakumar, aged about 31

years, son of Marappan, to issue a Writ of Habeas Corpus, to call for the records, in C.M.P.No.14/Goonda/2016/M1, dated 28.4.2016, passed by the second 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 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 to set him at liberty forthwith.

2. We have heard the learned counsel appearing on behalf of the petitioner, as well as 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, the 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.3 of the order of detention, that the detenu Sivakumar was remanded and lodged in the Central Prison, Salem, in Namagiripettai Police Station Crime No.112/2016. The detenu had not filed any bail application, so far. However, it had been stated in the grounds of detention that the relatives of the detenu are taking steps to take him out on bail, in respect of Crime No.112/2016, by filing a bail application, before the appropriate court. It had also 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 any bail application, 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 appearing on behalf of the respondents.

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 a bail application, on behalf of the detenu, to take him out on bail, in Crime No.112 of 2016, on the file of Namagiripettai Police Station. 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 28.4.2016, 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.

s/d-
Assistant Registrar

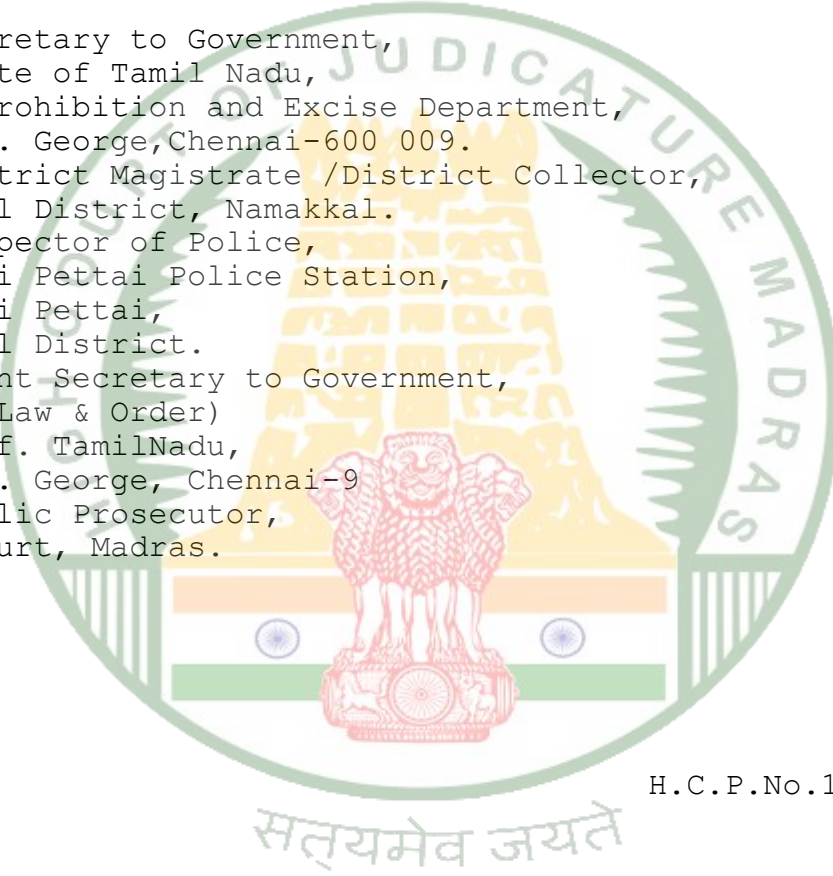
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Sub-Assistant Registrar

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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 District Magistrate /District Collector,
Namakkal District, Namakkal.
3. The Inspector of Police,
Namagiri Pettai Police Station,
Namagiri Pettai,
Namakkal District.
4. The Joint Secretary to Government,
Public(Law & Order)
Govt. Of. TamilNadu,
Fort.st. George, Chennai-9
5. The Public Prosecutor,
High Court, Madras.



H.C.P.No.1183 of 2016

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