

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2016

CORAM

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

H.C.P.No.1257 of 2016

Chellathai

.. Petitioner

Vs

1.The State of Tamil Nadu,  
rep by the Secretary,  
Prohibition and Excise Department,  
Fort St. George,  
Chennai-600 009.

2.The Commissioner of Police,  
Greater Chennai Police,  
Chennai.

3.The Inspector of Police,  
S-14, Peerkankaranai Police Station,  
Peerkankaranai, 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 of the detention order dated 3.6.2016 in detention order No.BCDEFGISSSV No.539 of 2016, on the file of the second respondent and quash the same and to direct the respondents herein to produce the body of the son Vikramaditharaja @ Rajapandi, son of Natarajan, aged about 38 years, who is now confined in the Central Prison, Puzhal, Chennai, before this Court and to set him liberty.

For Petitioner : Mr.R.Thamaraiselvan

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

ORDER

[Order of the Court was made by M.JAICHANDREN,J]

This Habeas Corpus Petition has been filed by the wife of the detenu, namely, Vikramaditharaja @ Rajapandi, aged about 38 years, son of Natarajan, to issue a Writ of Habeas Corpus,

to call for the records, in BCDFGISSSV No.539/2016, dated 03.06.2016, 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, Puzhal, 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, 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.4 of the order of detention, that the detenu Vikramaditharaja @ Rajapandi is in remand in S-14 Peerkankaranai Police Station Crime Nos.529/2016 and 700/2016 and S-15 Selaiyur Police Station Crime Nos.2652/2015, 152/2016 and 583/2016, S-6 Sankar Nagar Police Station Crime No.2817/2015 and S-11 Tambaram Police Station Crime Nos.85/2016 and 831/2016. He has filed a bail petition in S-14 Peernankaranai police station Crime No.700 of 2016, before the Principal Sessions Judge, Chennai, in CrI.M.P.No.1471/2016, which is pending. The detenu has not moved any bail petition for S-14 Peerkankaranai police station Crime No.529/2016, S-15 Selaiyur Police Station Crime Nos.2652/2015, 152/2016 and 583/2016, S-6 Sankar Nagar Police Station Crime No.2817 of 2015 and S-11 Tambaram Police Station Crime Nos.85/2016 and 831/2016, so far. It had been further stated in the detention order that the relatives of the detenu are taking steps to take him out on bail, in S-14 Peerkankaranai police station Crime No.529/2016, S-15 Selaiyur Police Station Crime Nos.2652/2015, 152/2016 and 583/2016, S-6 Sankar Nagar Police Station Crime No.2817 of 2015 and S-11 Tambaram Police Station Crime Nos.85/2016 and 831/2016, by filing bail applications 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 a 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 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 3.6.2016, 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/-  
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

vvk

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,  
Greater Chennai Police,  
Chennai.

3.The Inspector of Police,  
S-14, Peerkankaranai Police Station,  
Peerkankaranai, Chennai.

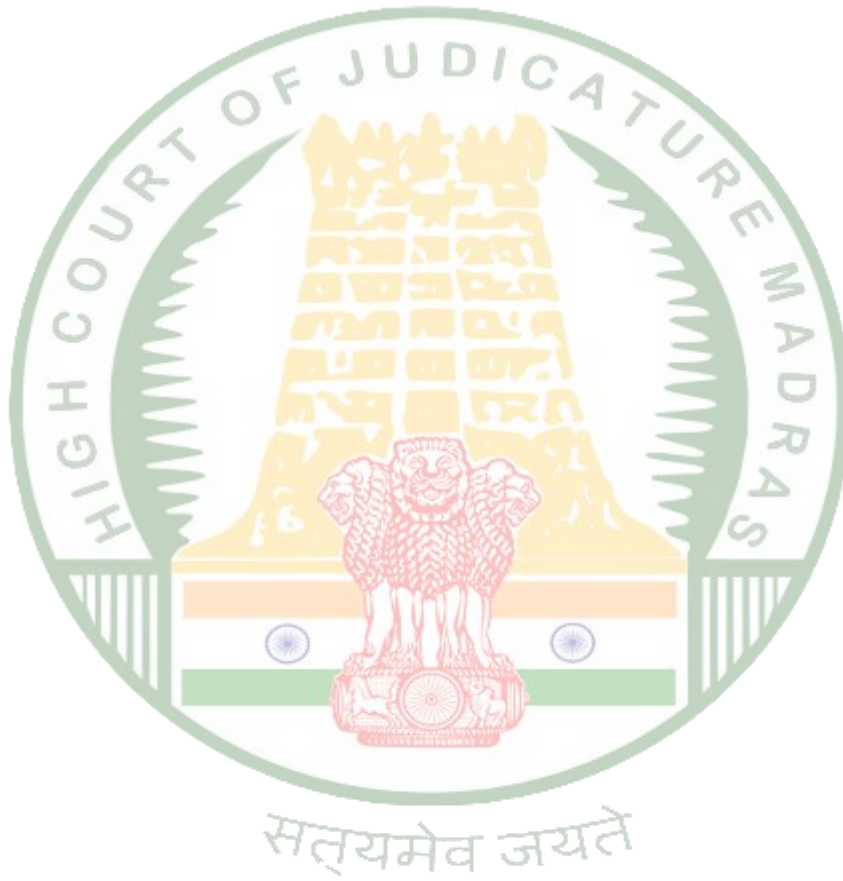
4. The Superintendent  
Central Prison,  
Puzhal, Chennai  
(In duplicate for communication to detenu)

5. The Joint Secretary to Government  
Public (Law and order)  
Fort St. George  
Chennai-9

6.The Public Prosecutor,  
High Court, Madras.

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VD (CO)  
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