

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2016

CORAM

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

H.C.P.No.1309 of 2016

Prabhavathy

... Petitioner/Wife of
Detenue

Vs

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-600 009.
2. The Commissioner of Police,
Greater Chennai Police,
Office of the Commissioner of Police
(Goondas Section),
Vepery, Chennai-600 007.
3. The Superintendent of Prison,
Central Prison,
Puzhal, 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 entire records connected with the detention order of the second respondent in No.542/BCDFGISSSV/2016, dated 3.6.2016 and to quash the same and to direct the respondents to produce the body and person of the petitioner's husband, namely Muthu @ Veeramuthu, son of Krishnan, aged about 33 years, detained in the Central Prison, Puzhal, Chennai, before this Court and to set him at liberty, forthwith.

For Petitioner : Mr.S.Mohamed Ansar

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

ORDER

This Habeas Corpus Petition has been filed by the wife of the detenu, namely, Muthu @ Veeramuthu, aged 33 years, son of Krishnan, to issue a Writ of Habeas Corpus, to call for the records, in No.542/BCDFGISSSV/2016, dated 3.6.2016, 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 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.4 of the order of detention, that the detenu Muthu @ Veeramuthu is in remand in K-7 ICF Police Station Crime Nos.439/2016 and 449/2016 and he had moved a bail application, before the V Metropolitan Magistrate Court, Egmore, Chennai, in CrI.M.P.No.966 of 2016, for K-7 ICF Police Station Crime No.449/2016 and that the bail had been granted, on 12.5.2016. It had been further stated that the detenu had moved a bail application, for K-7 ICF Police Station Crime No.439/2016, which is the second adverse case, before the Principal Sessions Court, Chennai, in CrI.M.P.No.6723 of 2016, which had been dismissed, on 11.5.2016. The detenu had again moved another bail application, before the Principal Sessions Court, Chennai, in CrI.M.P.No.7049/2016, for the Crime No.439/2016, which had also been dismissed, on 25.5.2016. It had been further stated in the order of detention that the relatives of the detenu are taking steps to take him out on bail, in K-7 ICF Police Station Crime No.439/2016, 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 a bail application, on behalf of the detenu, relating to the second adverse case, in Crime No.439/2016 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 the second adverse case, in Crime No.439/2016, on the file of K-7 ICF 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 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.

s/d-
Assistant Registrar (CS-IV)

//True Copy//

Sub-Assistant Registrar

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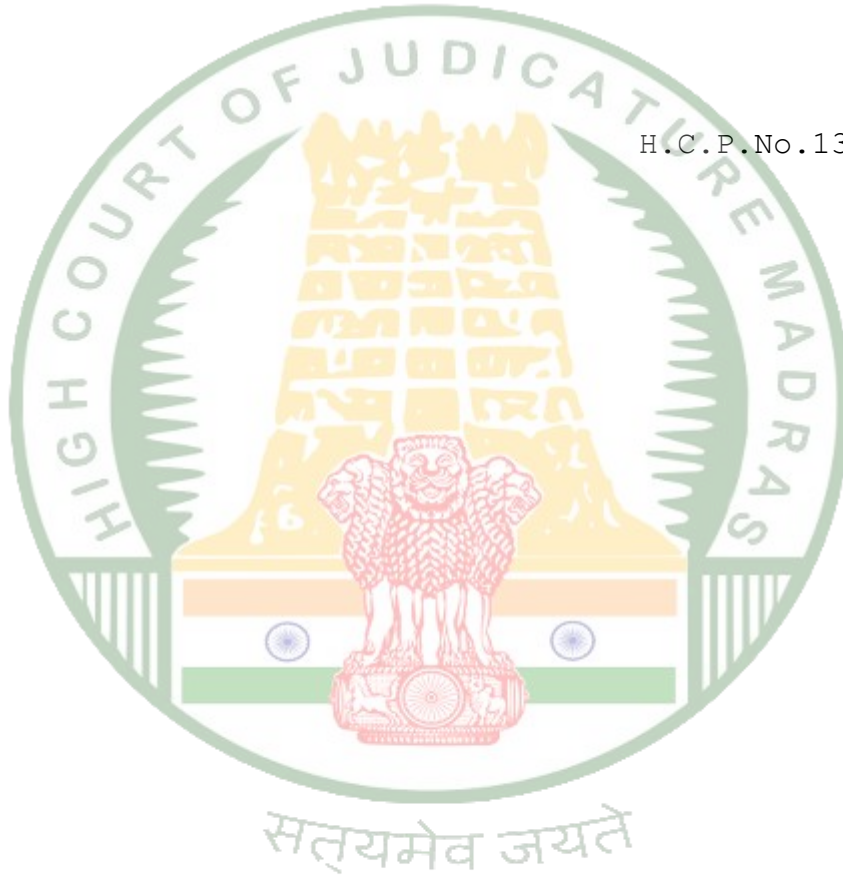
To

1. The Secretary to Government,
The State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-600 009.
2. The Commissioner of Police,
Greater Chennai Police,
Office of the Commissioner of Police
(Goondas Section),
Vepery, Chennai-600 007.
3. The Superintendent of Prison,
Central Prison, Puzhal, Chennai.

4. The Public Prosecutor,
High Court, Madras.
5. The Joint Secretary to Government
Public(Law & Order) Fort. St. George
Chennai-9

msm(co)
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