

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.1333 of 2016

Sureshrajan

.. Petitioner/Detenu

Vs

1. State of Tamil Nadu,
rep by its Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-600 009.

2. The Commissioner of Police,
Greater Chennai Police,
Vepery, Chennai-600 007.

.. 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 relating to the petitioner's detention, vide detention order, dated 2.6.2016, on the file of the second respondent, made in proceedings BCDFGISSSV No.533/2016 and quash the same, as illegal and consequently, to direct the respondents herein to produce the petitioner, namely Sureshrajan, son of Saminathan, aged about 47 years, before this court and to set him at liberty, from detention at Central Prison, Puzhal, Chennai.

For Petitioner : Mr.C.C.Chellappan

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

ORDER

This Habeas Corpus Petition has been filed by the detenu, namely, Sureshrajan, aged about 47 years, son of Saminathan, to issue a Writ of Habeas Corpus, to call for the records, in BCDFGISSSV No.533/2016, dated 2.6.2016, 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 Sureshrajn is in remand in S-5 Pallavaram Police Station Crime Nos.2574/2015, 1220/2016 and 1226/2016 and he had moved a bail application, in respect of Crime No.1226/2016, before the Court of Principal District and Sessions Judge, at Chengalpattu, in CrI.M.P.No.1382 of 2016, which had been dismissed. It had been further stated that the detenu had moved bail applications, for Crime Nos.2574/2015 and 1220/2016, before the Court of Judicial Magistrate, Tambaram, Chennai, in CrI.M.P.Nos.4280 of 2016 and 4279 of 2016, which are pending. The detaining authority had further stated in the order of detention that the relatives of the detenu are taking steps to take him out on bail, in S-5 Pallavaram Police Station Crime No.1226 of 2016, by filing another 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 another bail application, on behalf of the detenu, relating to the ground case, in Crime No.1226 of 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 another bail application on behalf of the detenu, to take him out on bail, in the ground case, in Crime No.1226 of 2016, on the file of S-5 Pallavaram 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 2.6.2016, 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.

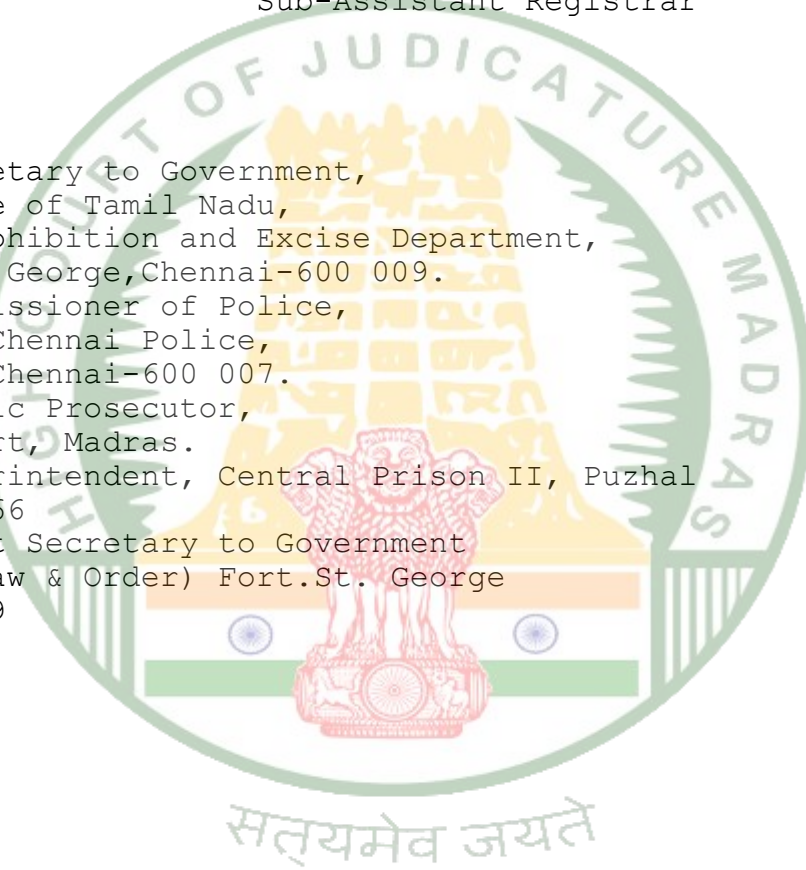
s/d-
Assistant Registrar (CS-II)

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Sub-Assistant Registrar

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,
Vepery, Chennai-600 007.
3. The Public Prosecutor,
High Court, Madras.
4. The Superintendent, Central Prison II, Puzhal
Chennai-66
5. The Joint Secretary to Government
Public (Law & Order) Fort. St. George
Chennai-9



H.C.P.No.1333 of 2016

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