

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.6.2016

CORAM

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU
and
THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

H.C.P.No.135 of 2016

Rajesh

..... Petitioner

Vs

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

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

..... 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 BCDFGISSSV NO.1128/2015 dated 28/10/2015 passed by the 2nd respondent and to quash the same and also to direct the detenu THIRU.RAJESH S/O.WILFRED 29 YEARS who is presently detained in the Central Prison PUZHAL CHENNAI to be produced before this Hon'ble court and set at liberty.

For Petitioner : Mr.S.Mohamed Aasif

For Respondents: Mr.A.N.Thambidurai,
Additional Public Prosecutor

ORDER
(Order of the Court was made by S.NAGAMUTHU, J.)

This Habeas Corpus Petition has been filed, by the relative and friend of detenu, namely, Rajesh, to issue a Writ of Habeas Corpus, to call for the entire records connected with the detention order of the second respondent, in BCDFGISSSV No.1128/2015, dated 28.10.2015 and quash the same and direct the respondents to produce the body and person of the petitioner's

friend by name Rajesh, son of Wilfred, aged about 29 years detained in Central Prison, Puzhal, Chennai, before this Court and set him at liberty forthwith.

2. We have heard the learned counsel appearing on behalf of the petitioner and 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, Mr.S.Mohamed Aasif, the learned counsel appearing on behalf of the petitioner, had 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 no bail applications had been moved on behalf of the detenu, in R3 Ashok Nagar Police Station Crime No.2943/2015. However, in the detention order, it had been stated that the relatives of the detenu are taking action to take him out on bail, in R3 Ashok Nagar Police Station Crime No.2943/2015, by filing bail applications before the appropriate Courts.

4. 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.

5. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 28.10.2015, 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.

सत्यमेव जयते

Sd/-

Assistant Registrar(V)

//True Copy//

Sub Assistant Registrar

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To

1.The Secretary to Government,
Prohibition and Excise Department (Home),
Secretariat, Chennai - 600 009.

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

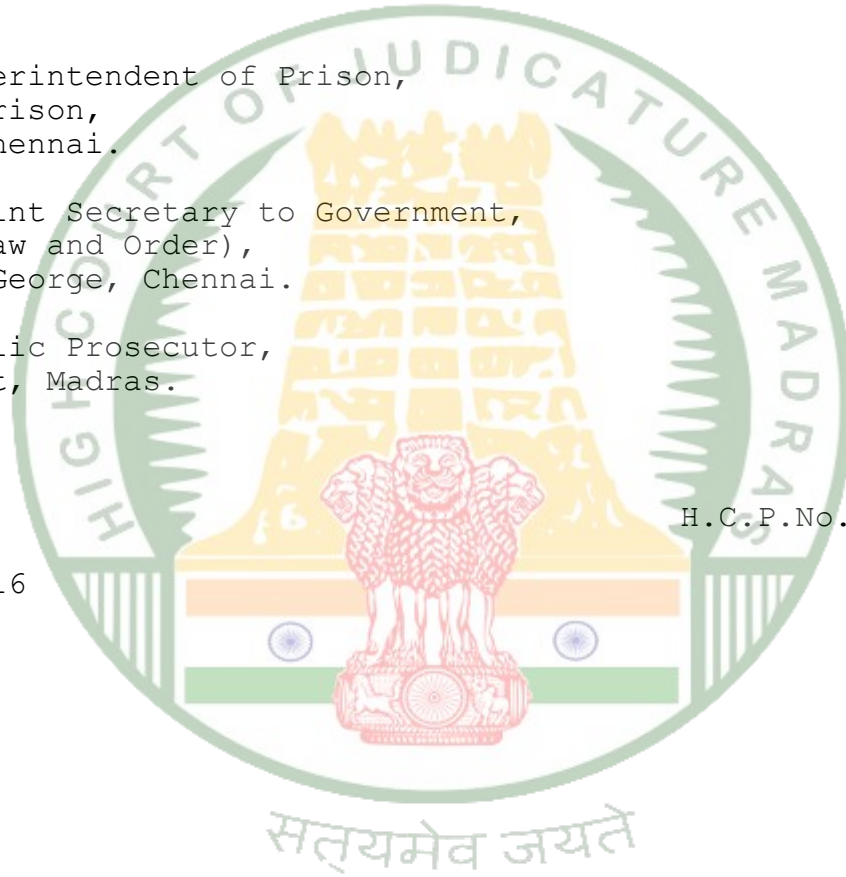
3.The Superintendent of Prison,
Central Prison,
Puzhal, Chennai.

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

5.The Public Prosecutor,
High Court, Madras.

AK(CO)
EU 01.07.16

H.C.P.No.135 of 2016



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