

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.12.2016

CORAM

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

H.C.P.No.1450 of 2016

R.Dhanam

..Petitioner/Mother of the
Detenue

Vs

1. The Principal Secretary to the Government,
Home, Prohibition and Excise Department,
Chennai-600 009.
2. The Commissioner of Police,
Greater Chennai,
Chennai.
3. The Superintendent of Prison,
Central Prison, Puzhal,
Chennai.
4. The State,
rep by the Inspector,
S-8 Adambakkam Police Station,
Chennai.
- 5.The State
rep by the Inspector of Police,
S-10 Pallikaranai Police Station,
Chennai.
6. The State,
rep by the Inspector of Police,
J-7 Velachery Police Station,
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, vide order BCDFGISSSV No.497/2016, dated 29.4.2016, on the file of the second respondent and to set aside the same and to produce the petitioner's son R.Elango, son of Ramalingam, now confined in

the Central Prison-II, Puzhal, Chennai and to set him at liberty, forthwith.

For Petitioner : Dr.G.Krishnamurthy

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

ORDER

This Habeas Corpus Petition has been filed by the mother of the detenu, namely, Elango, aged about 23 years, son of Ramalingam, to issue a Writ of Habeas Corpus, to call for the records, in BCDFGISVV No.497/2016, dated 29.4.2016, 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, 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, Elango, is in remand, in J-7 Velachery Police Station Crime Nos.464/2016, 485/2016 and 664/2016 and he had moved bail applications, for J-7 Velachery Police Station Crime Nos.464/2016 and 485/2016, which are the fourth and the fifth adverse cases, before the XVIII Metropolitan Magistrate Court, Saidapet, Chennai, in CrI.M.P.Nos.1114 of 2016 and 1115 of 2016, which are pending. The detaining authority had further stated in the order of detention that the detenu had not moved any bail application, in Crime No.664 of 2016, which is the ground case, so far. It had been further stated that the relatives of the detenu are taking steps to take him out on bail, in the said ground case, in Crime No.664 of 2016, by filing a bail application, before the appropriate court. However, it had been pointed out by the learned counsel appearing on behalf of the petitioner 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, in the above said ground case, in Crime No.664 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 a bail application on behalf of the detenu, to take him out on bail, in J-7 Velachery Police Station Crime No.664/2016, which is the ground case. 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 29.4.2016, 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 (CS-III)

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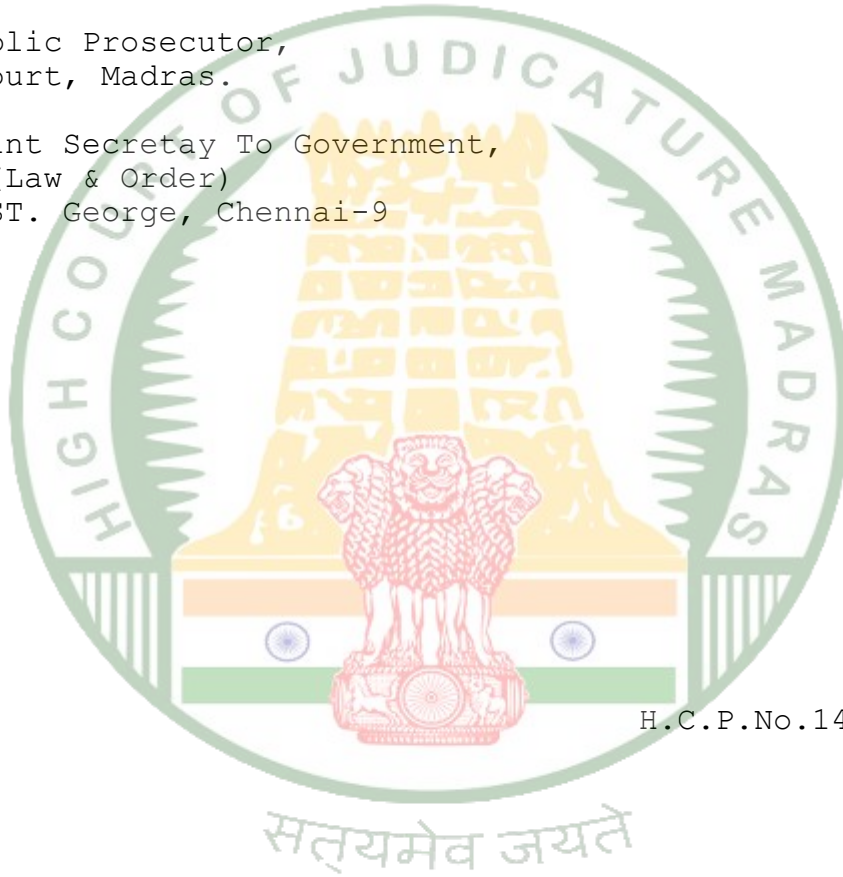
Sub-Assistant Registrar

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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 Commissioner of Police,
Greater Chennai,
Chennai.
3. The Superintendent of Prison,
Central Prison, Puzhal,
Chennai.

4. The Inspector,
S-8 Adambakkam Police Station,
Chennai.
5. The Inspector of Police,
S-10 Pallikaranai Police Station,
Chennai.
6. The Inspector of Police,
J-7 Velachery Police Station,
Chennai.
7. The Public Prosecutor,
High Court, Madras.
8. The Joint Secretary To Government,
Public(Law & Order)
Fort. ST. George, Chennai-9



H.C.P.No.1450 of 2016

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