

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.05.2016

CORAM:

THE HONOURABLE MR . JUSTICE G.CHOCKALINGAM
AND
THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

H.C.P.No.15 of 2016

Mohammed Aslam ... Petitioner

-Vs-

1.The Secretary to Government
Home, Prohibition & Excise Department,
Secretariat,
Chennai 600 009.

2. The Commissioner of Police,
Chennai,
Office of the Commissioner of Police (Goondas Section)
Vepery, Chennai

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

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, to call for the entire records in connection with the Detention Order passed by the 2nd respondent dated 18.09.2015 in BCDFGISSSV No.955/2015 and quash the same and direct the respondents to produce the body and person of my brother by name Mohammed Saffi, son of Abdul Kadhar, aged about 36 years detained in Central Prison, Puzhal, Chennai before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Rajprabhu

For Respondents : Mr.M.Maharaja
Addl. Public Prosecutor

O R D E R

[Order of the Court was made by G.CHOCKALINGAM, J.]

This Habeas Corpus Petition is filed, by the brother of the

detenu, namely, Mohammed Saffi, aged 36 years, S/o Abdul Kadhar, to issue a Writ of Habeas Corpus, to call for the records, in No.955/2015 dated 18.09.2015, passed by the 2nd Respondent, detaining the detenu, under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14/1982) branding him as a "Goonda", as contemplated u/s 2(f) of the Tamil Nadu Act 14 of 1982, and to quash the same, produce him before this Court and to set him at liberty.

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.R.Rajprabhu, 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 that the relatives of the detenu were taking steps to file bail application, in which case there was real possibility of the detenu coming out on bail. The learned counsel pointed out that to arrive at such a conclusion, there was no material placed before the detaining authority at all.

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 application, on behalf of the detenu, to take him out on bail, in the above said 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.

5. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 18.09.2015, 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.

Sd/-

Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

ssd/kua

To

1.The Secretary to Government
Home, Prohibition & Excise Department,
Secretariat,
Chennai 600 009.

2. The Commissioner of Police,
Chennai,
Office of the Commissioner of Police (Goondas Section)
Vepery, Chennai

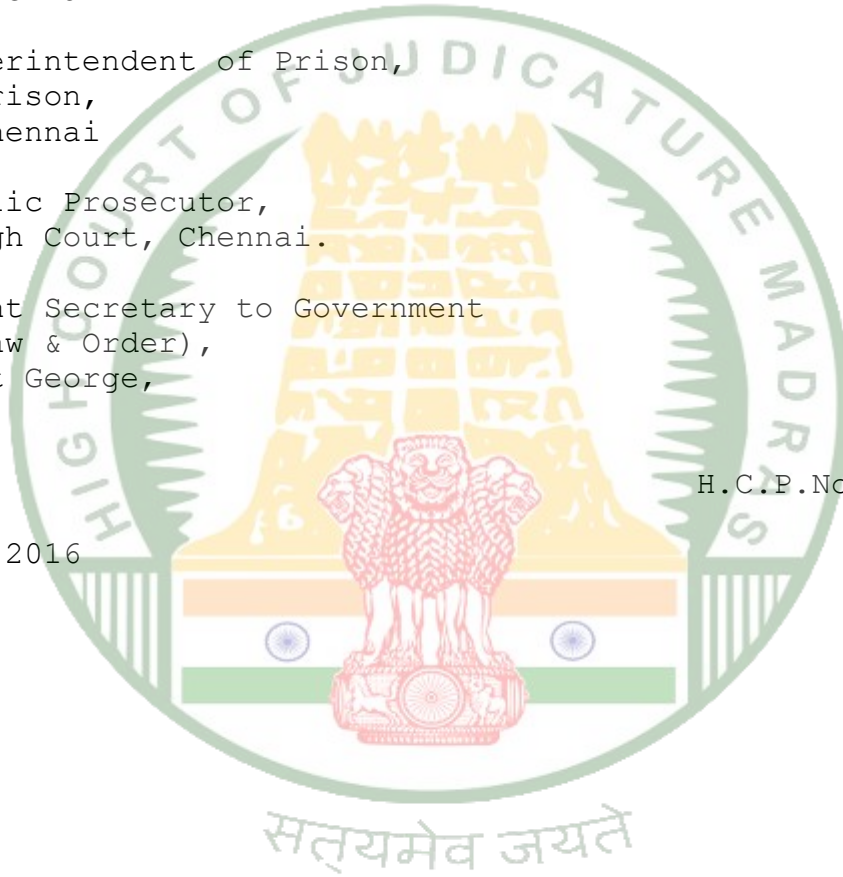
3.The Superintendent of Prison,
Central Prison,
Puzhal, Chennai

4.The Public Prosecutor,
Madras High Court, Chennai.

5.The Joint Secretary to Government
Public (law & Order),
Fort Saint George,
Chennai 9.

H.C.P.No.15 of 2016

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