

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 06.06.2016

CORAM

THE HON'BLE MR.JUSTICE S.NAGAMUTHU
and
THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

H.C.P.No.150 of 2016

JAYGHATHAMMAL

... petitioner

versus

- 1 THE PRINCIPAL SECRETARY TO
GOVERNMENT HOME PROHIBITION &
EXCISE (XVI)
DEPARTMENT SECRETARIAT CHENNAI.
- 2 THE COMMISSIONER OF POLICE
O/O.THE COMMISSIONER OF POLICE
SALEM CITY SALEM.
- 3 THE INSPECTOR OF POLICE
B-4 ANNADHANAPATTY POLICE STATION
SALEM DISTRICT.

... 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 C.M.P.NO.85/2015 dated 02/12/2015 passed by the 2nd respondent and to quash the same and also to direct the detenu VIJI @ VIJIYAN AGE 29 YEARS S/O.ASOKAN who is presently detained in the Central Prison, Salem, to be produced before this Hon'ble court and set at liberty.

For Petitioner : Mr.A.Raja Mohammed

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

ORDER

[Order of the Court was made by V.BHARATHIDASAN, J.]

This Habeas Corpus Petition is filed by the grandmother of the detenu, namely, Viji @ Vijayan, aged about 29 years, to issue a Writ of Habeas Corpus, to call for the records, in detention order passed by the 2nd 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 14/1982), the Tamil Nadu Act 14 of 1982, branding him as a "Goonda", and to quash the same and to direct the Respondents to produce the body of the detenu 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. A.Raja Mohamed, 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 for Annadanapatty P.S. Cr.Nos.418 of 2015 and 481 of 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 those police station crime numbers, by filing bail applications 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 bail applications, on behalf of the detenu 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.

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 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.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, 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.

svki

Sd/-
Assistant Registrar(CS IV)

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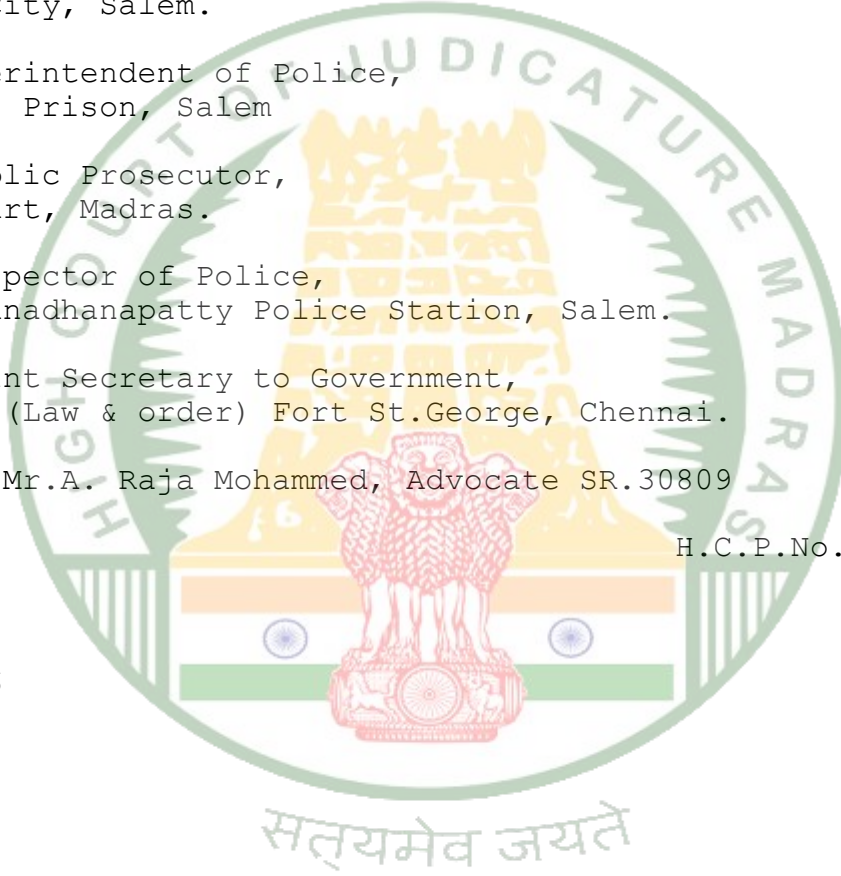
Sub Assistant Registrar

TO

- 1.The Secretary to Government
Home, Prohibition and Excise Department
Fort St.George,
Chennai 600 009.
 - 2.The Commissioner of Police,
Salem City, Salem.
 - 3.The Superintendent of Police,
Central Prison, Salem
 - 4.The Public Prosecutor,
High Court, Madras.
 5. The Inspector of Police,
B-4, Annadhanapatty Police Station, Salem.
 6. The Joint Secretary to Government,
Public (Law & order) Fort St.George, Chennai.
- + 1 cc to Mr.A. Raja Mohammed, Advocate SR.30809

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NM(CO)
Eu 19.7.16



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