

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.06.2016

CORAM

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

H.C.P.No.171 of 2016

Jayavel Pandiyan

..Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Secretary
to Government, Home
Prohibition and Excise Department,
Secretariat, Chennai - 9.

2.The Commissioner of Police,
Greater Chennai Police,
Vepery,
Chennai - 7.

..Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus to call for the records of the detention made in Memo No.1184/B.C.D.F.G.I.S.S.S.V/2015 dated 13.11.2015 passed by the Commissioner of Police, Greater Chennai Police, Vepery, Chennai - 7, the second respondent herein and set aside the same and direct the respondents to produce the detenu before this Court and set the detenu Thiru.Madhan @ Malik Basha @ Madhanahasan @ Mohamed Azharudhin, son of Jayavel Pandiyan, aged 36 years now confined in Central Prison, Puzhal II, Chennai at liberty.

For Petitioner : Mr.S.Srinivasa Narayanan
For Respondents : Mr.A.N.Thambidurai,
Additional Public Prosecutor

ORDER

[Order of the Court was made by S.NAGAMUTHU.J]

Challenge is made to the order of detention passed by the second respondent vide Proceedings in Memo No.1184/B.C.D.F.G.I.S.S.S.V/2015 dated 13.11.2015, whereby the detenu/son of the petitioner, by name, Thiru.Madhan @ Malik Basha @ Madhanahasan @ Mohamed Azharudhin, son of Jayavel

Pandiyan, aged 36 years, was ordered to be detained under the provisions 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".

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. Even though several grounds have been raised in assailing the impugned order of detention in the petition, the learned counsel for the petitioner would submit that, in paragraph 4 of the detention order dated 13.11.2015, it has been stated that the petition filed by the detenu seeking bail in Cr.No.2814 of 2015 was pending and though it is stated that in similar case in Cr.No.604 of 2015, bail was granted and thus there was likelihood of the detenu coming out on bail immediately in Cr.No.2814/2015, the said conclusion is not correct.

4. We have perused the records. It is seen that Cr.No.2814 of 2015 involves offences under Sections 365 & 506(i) IPC, whereas, the offence involved in Cr.No.604 of 2015 is under Sections 147, 148, 341, 364(A), 442, 324, 384 and 506(ii) I.P.C. Thus, the two cases are dissimilar. When that be so, the subjective satisfaction arrived at by the detaining authority that there is likelihood of the detenu coming out on bail, is based on no materials. In such view of the matter, the detention order is liable to be quashed.

5. Accordingly, the habeas corpus petition is allowed and the detention order dated 13.11.2015, passed by the second respondent is quashed. The detenu is directed to be set at liberty, forthwith, unless his presence is required in connection with any other case.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

jbm

To

1.Secretary to Government, Home
Prohibition and Excise Department,
Secretariat, Chennai - 9.

2.The Commissioner of Police,
Greater Chennai Police,
Vepery, Chennai - 7.

3. The Superintendent Central Person,
Puzhal, Chennai.

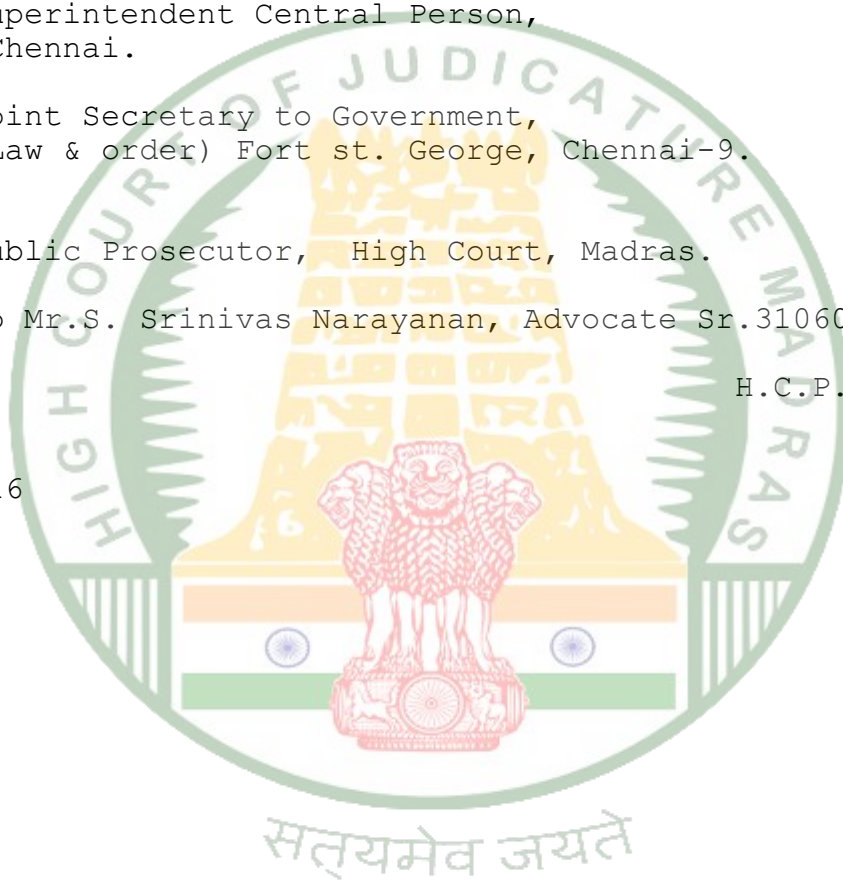
4. The Joint Secretary to Government,
Public (Law & order) Fort st. George, Chennai-9.

5.The Public Prosecutor, High Court, Madras.

+ 1 cc to Mr.S. Srinivas Narayanan, Advocate Sr.31060

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SKV(CO)
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