

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.223 of 2016

V.Krishnaveni

... Petitioner

-Vs-

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

2.The District Collector,
District Magistrate,
Krishnagiri District
Krishnagiri

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, to call for the records in connection with the order of Detention passed by the 2nd respondent dated 07.01.2016 in S.C.No.01/2016 against the petitioner's husband Vasu @ Vasan, Male, aged 42 years s/o Thimmi Naidu, who is confined at Central Prison, Salem and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.S.Senthilvel

For Respondents : Mr.M.Maharaja

Addl. Public Prosecutor

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O R D E R

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

This Habeas Corpus Petition is filed, by the wife of the detenu, namely, Vasu @ Vasan, aged 42 years, S/o Thimmi Naidu, to issue a Writ of Habeas Corpus, to call for the records, in S.C.No.01/2016 dated 07.01.2016, 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 "Sand Offender", as contemplated u/s 2(gg) 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.S.Senthilvel, 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 07.01.2016, 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.

Sd/-

Vacation Officer

/true copy/

Sub Asst. Registrar

ssd/kua

To

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

2.The District Collector,
District Magistrate,
Krishnagiri District
Krishnagiri

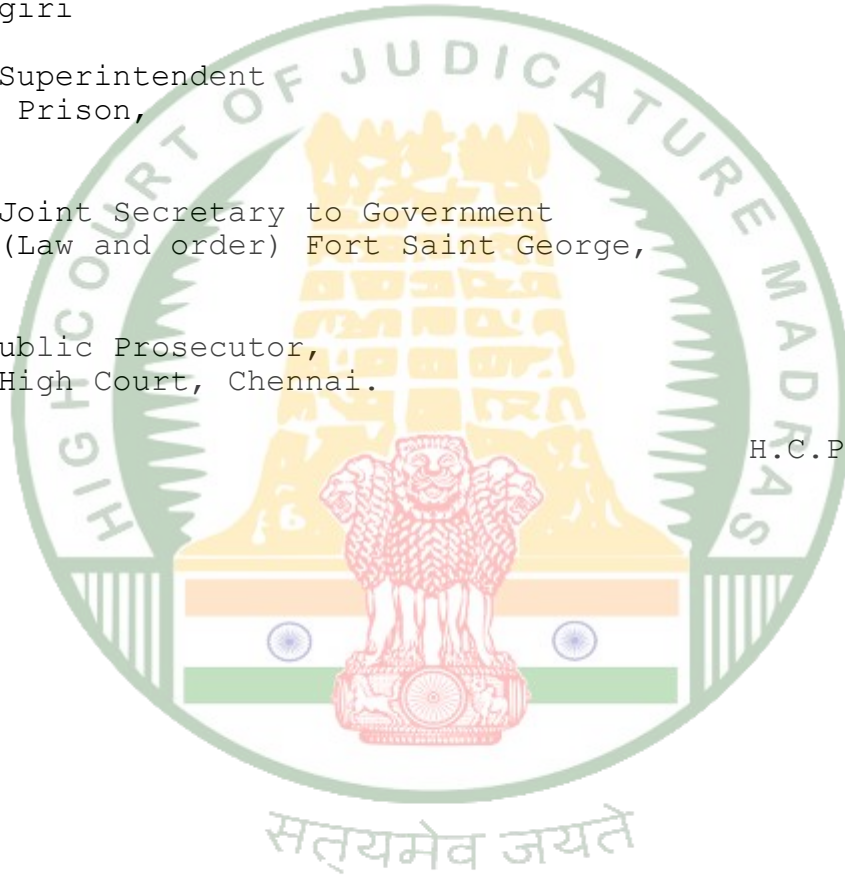
3. The Superintendent
Central Prison,
Salem

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

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

H.C.P.No.223 of 2016

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