

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.05.2016

CORAM

THE HON'BLE MR.JUSTICE G.CHOCKALINGAM
and
THE HON'BLE MR.JUSTICE M.V.MURALIDARAN

H.C.P.No.251 of 2016

Raja

..Petitioner

Vs.

1.The State of Tamilnadu,
Rep. by its Secretary to Government
Prohibition and Excise Department (Home)
Secretariat, Chennai 600 009.

2.The Commissioner of Police,
Veppari, Greater Chennai.

...Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, to call for the records relating to the detenu's detention order passed by the second respondent in Memo No.1269/BCDFGISSSV/2015 dated 22.12.2015 and set aside the same and produce the detenu Selvakumar @ Abdullah, male, aged about 29, son of Muthuvel, now detained in Central Prison II, Puzhal, Chennai.

For Petitioner : Mr.S.Elan Kumaran

For Respondents : Mr.M.Maharaja

Addl. Public Prosecutor

सत्यमेव जयते
O R D E R

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

Challenge is made to the order of detention passed by the second respondent vide Proceedings in No.1269/2015 dated 22.12.2015, whereby the detenu, namely Selvakumar @ Abdullah, S/o.Muthuvel, aged about 29 years, was ordered to be detained under the provisions of 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 of 1982) branding him as a "GOONDA".

2. Though, several grounds have been raised in this Habeas Corpus Petition, Mr.S.Elan Kumaran, 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 application had been moved on behalf of the detenu, in ground case in Cr.No.598/2015 and the fourth adverse case in Crime No.518/2015, wherein he is in remand. 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 Crime Nos.518/2015 and 598/2015, by filing bail application before the appropriate Court.

3. 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 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.

4. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 22.12.2015, 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.

-s/d-

Assistant Registrar(CSIII)

True Copy

Sub-Assistant Registrar

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To

1.The Secretary to Government
The State of Tamilnadu,
Prohibition and Excise Department (Home)
Secretariat, Chennai 600 009.

2.The Commissioner of Police,
Veppari, Greater Chennai.

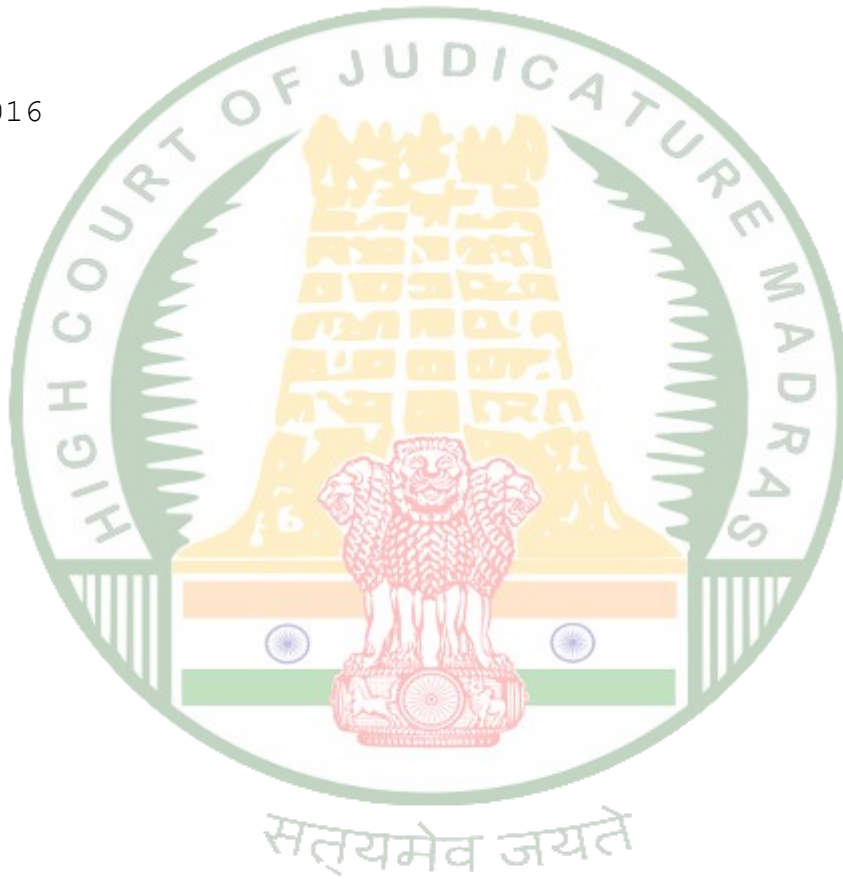
3.The Superintendent of Police,
Central Prison, Puzhal, Chennai

4.The Joint Secretary to Government
Public Law and Order
Fort St.George Chennai-9

5.The Additional Public Prosecutor
High Court, Madras.

H.C.P.No.251 of 2016

gj (II)
aa15/06/2016



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