

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.05.2016

CORAM

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

H.C.P.No.260 of 2016

Basheer

... Petitioner

v.

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

2.The Commissioner of Police
Greater Chennai Police
Vepery, Chennai - 600 007.

... 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 relating to petitioner's brother detention under Tamil Nadu Act 14 of 1982 vide detention order, dated 28.01.2016 on the file of the second respondent herein made in Proceedings No.27/BCDFGISSSV 2016 and quash the same as illegal and consequently direct the respondents herein to produce the said petitioner's brother namely Mohammed Yusuf son of Abdul Gani, aged 42 years before this Court and set the petitioner's brother at liberty from detention, now petitioner's brother detained at Central Prison -II, Puzhal, Chennai -600 066.

For Petitioner : Mr.C.Chellappan

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, Mohamed Yusuf, aged 42 years, S/o.Abdul Gani, to issue a Writ of Habeas Corpus, to call for the records, in

No.27/BCDFGISSSV/2016, dated 22.01.2016, 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 "BOOTLEGGER", and to quash the same, produce him before this Court and to set him at liberty.

2. Though, several grounds have been raised in this Habeas Corpus Petition, Mr.C.Cellappan, the learned counsel appearing on behalf of the petitioner focused his argument on the ground that in Cr.No.13 of 2016, the bail applications filed by the detenu were dismissed by the learned Magistrates concerned on 25.01.2016 and 27.01.2016 and on the next day itself, i.e. on 28.01.2016, the detention order has been passed. When that be so, the satisfaction arrived at by the detaining authority, that there is likelihood of the detenu coming out on bail is absolutely baseless.

3. 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.

4. As rightly pointed out by the learned counsel for the petitioner, from paragraph 3 of the detention order, it is crystal clear that the detenu had not filed any application seeking bail, after dismissal of the earlier applications on 25.01.2016 and 27.01.2016. When that be so, it is not explained to the Court as to how the detaining authority has come to the conclusion that there was real possibility of the detenu coming out on bail. This shows the predetermined mind of the detaining authority. 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 28.01.2016, passed by the 2nd 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(J)

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Sub Assistant Registrar

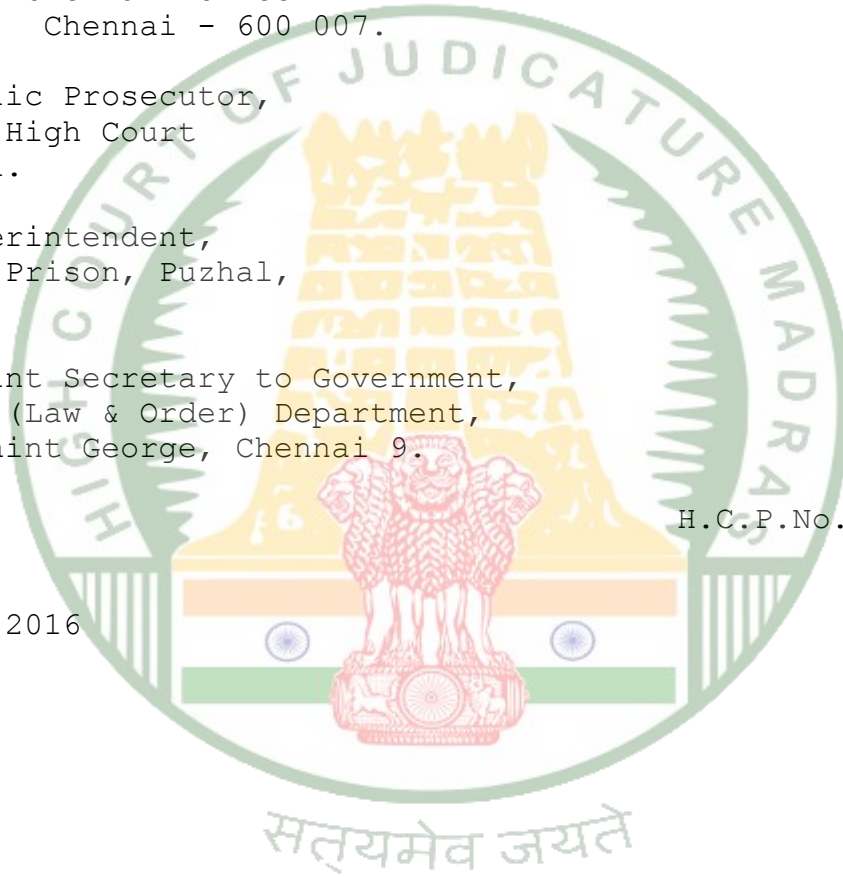
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To

- 1.The Secretary to Government
The State of Tamilnadu,
Home Prohibition & Excise Department
Chennai 600 009.
- 2.The Commissioner of Police
Greater Chennai Police
Vepery, Chennai - 600 007.
- 3.The Public Prosecutor,
Madras High Court
Chennai.
- 4.The Superintendent,
Central Prison, Puzhal,
Chennai.
5. The Joint Secretary to Government,
Public (Law & Order) Department,
Fort Saint George, Chennai 9.

H.C.P.No.260 of 2016

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