

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.278 of 2016

Amudha

... Petitioner

Vs.

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
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 records relating to the detenu's detention order passed by the 2nd respondent in his Order No.1162/2015 dated 03.11.2015 approved by the first respondent and set aside the same and produce the detenu Arumugam, aged 33 years, S/o.Sundara Mahalingam, now detained in Central Prison, Puzhal, Chennai before this Court and set him at liberty.

For Petitioner : Mr.N.Ramu

For Respondents : Mr.M.Maharaja
Additional 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 sister of the detenu, namely, Arumugam, aged 33 years, S/o.Sundara Mahalingam, to issue a Writ of Habeas Corpus, to call for the records, in BCDFGISSSV/No.1162/2015, dated 03.11.2015, 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 "Goonda", 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.N.Ramu, 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.921/2015 and the second adverse case in Crime No.916/2015, 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.921/2015 and 916/2015, by filing bail application before the appropriate Court.

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 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.

5. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 03.11.2015, 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.

Sd/-
Vacation Officer

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Sub Assistant Registrar

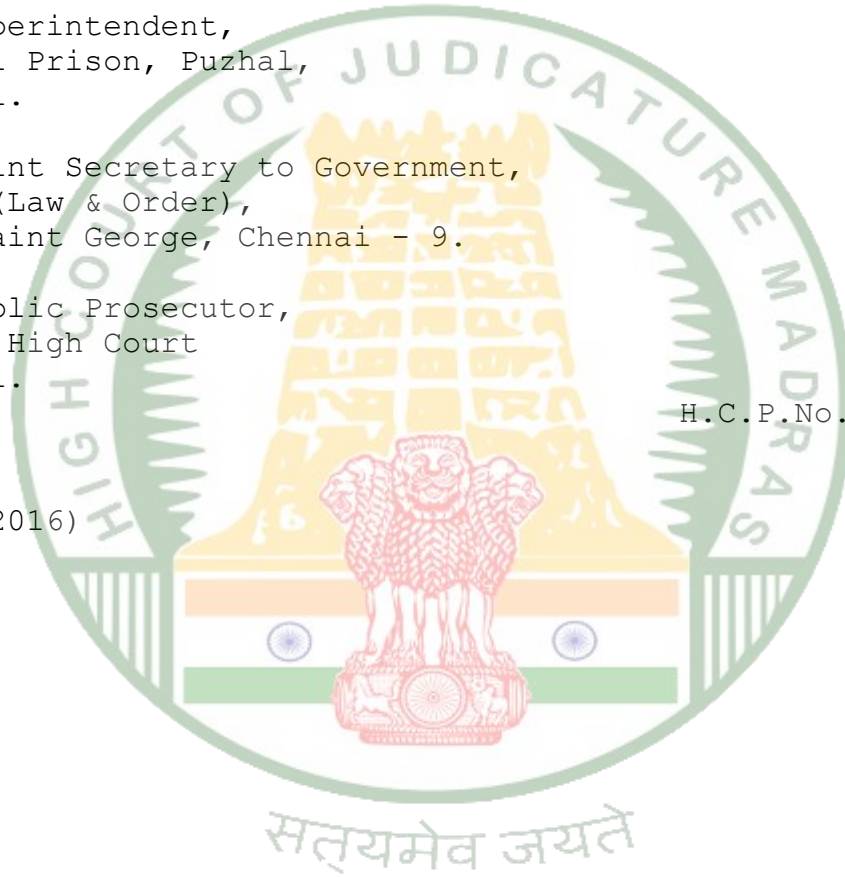
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To

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

H.C.P.No.278 of 2016

RSY(CO)
CA(31/05/2016)



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