

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.05.2016

CORAM:

THE HONOURABLE MR. JUSTICE G.CHOCKALINGAM
AND
THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

H.C.P.No.327 of 2016

Lakshmi

.. Petitioner

-Vs-

1. State of Tamil Nadu
rep. By the Secretary,
Home, Prohibition and Excise Department,
Fort St. George, Chennai 600 009.
2. The Commissioner of Police
The Commissioner Office,
Vepery, Chennai-600 007.

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, calling for the records relating to the detention order in Memo No.91/BCDFGISSSV/2016, dated 10.02.2016, passed by the respondent under the Tamil Nadu Act 14 of 1982 and set aside the same and direct the respondent to produce the petitioner's son Sivakumar, S/o.Ayyanar, aged about 32 years the detenu, now confined in Central Prison, Puzhal, Chennai, before this Court and set the petitioner's son Sivakumar, S/o.Ayyanar, aged about 32 years, the detenu herein at liberty.

For Petitioner : Mr.D.Gopi Krishnan

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 mother of the detenu, namely, Sivakumar, aged 32 years, S/o.Ayyanar, to issue a Writ of Habeas Corpus, to call for the records, in Memo No.91/BCDFGISSSV/2016 dated 10.02.2016, passed by the second Respondent, detaining the detenu, under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers,

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", as contemplated u/s 2(f) 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.D.Gopi Kirshnan, learned counsel appearing for 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 Crime No.1755 of 2015 and in the fourth adverse case in Crime No.1694/2015 registered by the M-1, Madhavaram Police Station, 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 M-1, Madhavaram Police Station Crime No.1694 of 2015 and Crime No.1755 of 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 the subjective satisfaction arrived at by the detaining authority that there is real possibility of his coming out on bail in the adverse case would be a mere ipse dixit and that would vitiate the order of detention and the same is indicative of total 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 10.02.2016, 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.

gg

Sd/-
Asst.Registrar

/true copy/

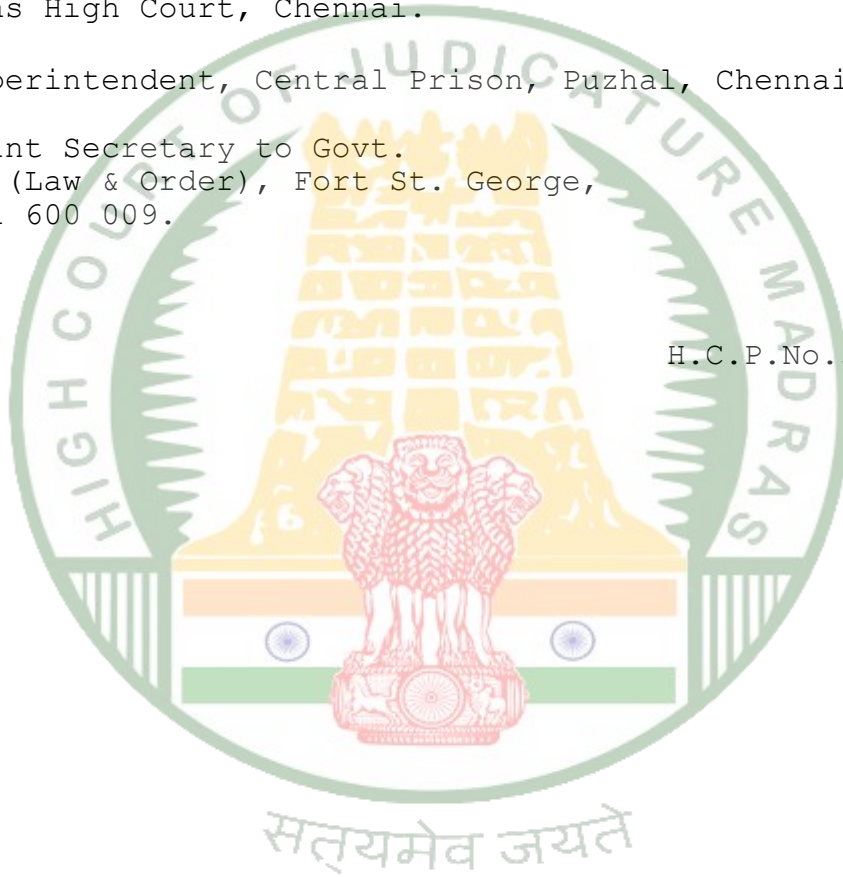
Sub Asst. Registrar

To

1. The Principal Secretary,
Home, Prohibition and Excise Department
Government of Tamil Nadu,
Secretariat, Chennai 600 009.
2. The Commissioner of Police
Vepery, Chennai.
3. The Public Prosecutor,
Madras High Court, Chennai.
4. The Superintendent, Central Prison, Puzhal, Chennai-66.
5. The Joint Secretary to Govt.
Public (Law & Order), Fort St. George,
Chennai 600 009.

KR/1/6/16

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