

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.06.2016

CORAM

THE HON'BLE MR.JUSTICE S.NAGAMUTHU
and
THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

H.C.P.No.367 of 2016

Kasara .. Petitioner

Vs.

1.State of Tamil Nadu,
Rep. by the Secretary,
Prohibition and Excise Department,
Fort St.George, Chennai - 600 009.

2.The Commissioner of Police,
Greater Chennai,
Veperi, 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 detention order No.BCDFGISSSV No.22/2016 dated 27.01.2016 passed by the second respondent under Tamil Nadu Act 14/82 and quash the same and produce the detenu, Rafiq (allies) Mohammed Rafiq, S/o Abdul Razaak, aged 23 years, confined at Central Prison, Puzhal, before this Court and set him at liberty.

For Petitioner : Mr.S.N.Arunkumar

For Respondents : Mr.A.N.Thambidurai
Additional Public Prosecutor

O R D E R

[Order of the Court was made by V.BHARATHIDASAN,J.]

This Habeas Corpus Petition has been filed, by the mother of the detenu, namely, Rafiq @ Mohamed Rafiq, to issue a Writ of Habeas Corpus, to call for the entire records connected with the detention order of the second respondent, in Memo No.22/BCDFGISSSV/2016, dated 27.01.2016 and set aside the same and direct the respondents to produce the body and person of the petitioner's son, by name Rafiq @ Mohamed Rafiq, son of

Abdul Razaak, aged about 23 years detained in Central Prison, Puzhal, Chennai, before this Court and 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.N.Arunkumar, 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 has been moved on behalf of the detenu, in R-5 Virugambakkam Police Station Crime Nos.3926/2015, 3927/2015 and 3970/2015. 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 R-5 Virugambakkam Police Station Crime Nos.3926/2015, 3927/2015 and 3970/2015, by filing bail application before the appropriate Courts.

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 applications, 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 27.01.2016, 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/-

Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

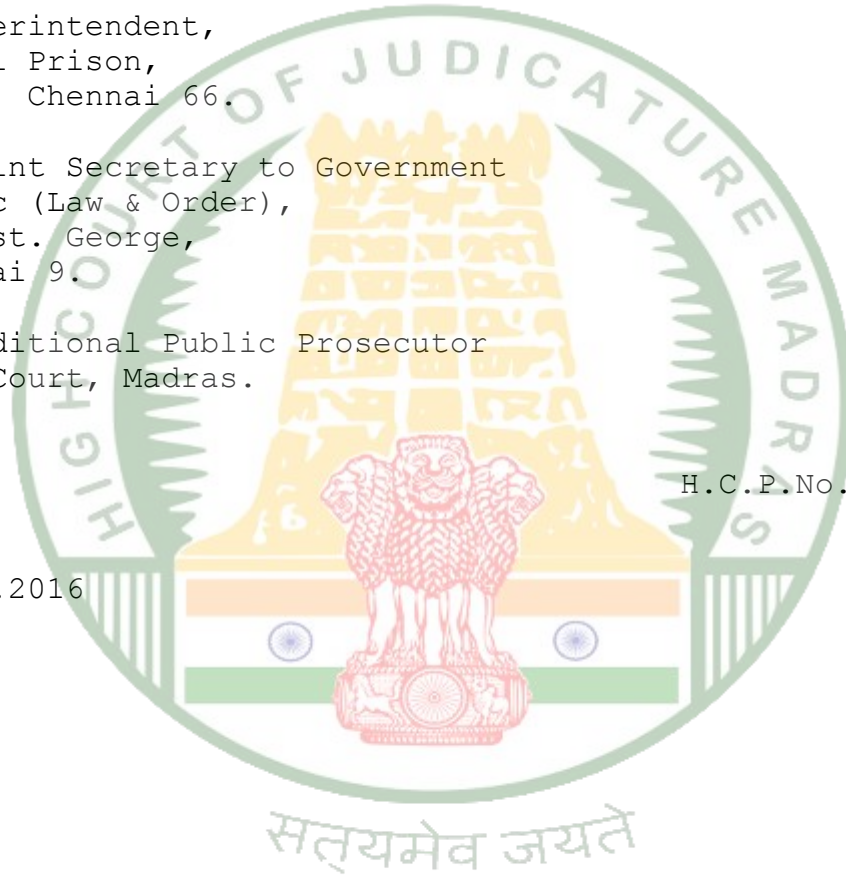
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To

- 1.State of Tamil Nadu,
Rep. by the Secretary,
Prohibition and Excise Department,
Fort St.George, Chennai - 600 009.
- 2.The Commissioner of Police,
Greater Chennai,
Veperi, Chennai - 600 007.
- 3.The Superintendent,
Central Prison,
Puzhal, Chennai 66.
4. The Joint Secretary to Government
Public (Law & Order),
Fort st. George,
Chennai 9.
5. The Additional Public Prosecutor
High Court, Madras.

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