

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.6.2016

CORAM

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU
and
THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

H.C.P.No.392 of 2016

R.Mohan

..... Petitioner

Vs

1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.

2.The District Magistrate and District Collector,
Erode District, Erode.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India,praying to issue a WRIT OF HABEAS CORPUS directing the respondents to produce the detenu viz., R. Mohan @ Madheswaran s/o. Ramaswamy Chettiar, who is now detained in Central Prison, Coimbatore City in pursuance of the detention order passed by the 2nd respondent dated on 23.01.2016 in Cr.M.P.No.03/Goonda/2016/C1 before this Court, call for the records, set aside the order, and set the detenu at liberty forthwith.

For Petitioner : Mr.R.Ganesh

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

सत्यमेव जयते
ORDER

(Order of the Court was made by S.NAGAMUTHU, J.)

This Habeas Corpus Petition has been filed, by the detenu, namely, R. Mohan @ Madheswaran, to issue a Writ of Habeas Corpus, to call for the entire records connected with the detention order of the second respondent, in Cr.M.P.No.03/Goonda/2016/C1, dated 23.01.2016 and quash the same and direct the respondents to produce the body and person of the petitioner's husband by name R. Mohan @ Madheswaran s/o. Ramaswamy Chettiar,, aged about 50 years detained in Central Prison, Coimbatore before this Court and set him at liberty forthwith.

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, 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.5 of the order of detention, that no bail application had been moved on behalf of the detenu, in Malayampalayam Police Station Crime No.273/2015. 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 Malayampalayam Police Station Crime No.273/2015, 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 case. 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 23.01.2016, 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/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

To

- 1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
- 2.The District Magistrate and District Collector,
Erode District, Erode.
- 3.The Superintendent of Prison,
Central Prison,
Coimbatore

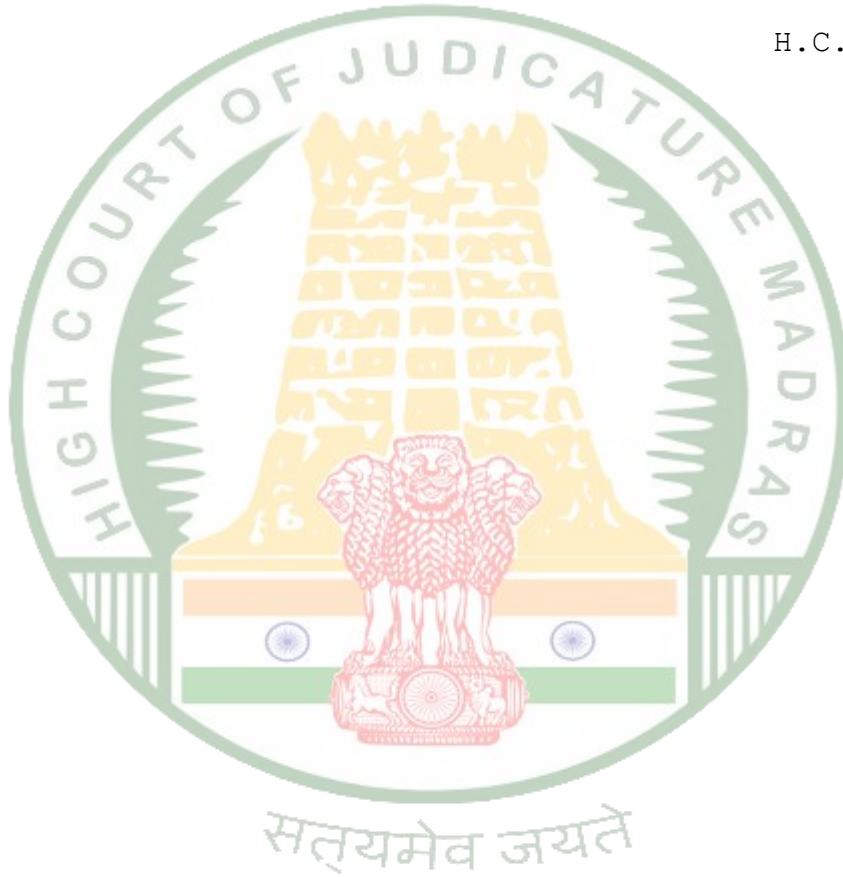
4. The Joint Secretary to Government,
Public (Law and Order),
Fort St. George, Chennai.

5.The Public Prosecutor,
High Court, Madras.

+1 cc to Mr.R.Ganesh, Advocate,SR.34079.

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