

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2016

CORAM

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

H.C.P.No.426 of 2016

Nagan

..... Petitioner

Vs

1.The Commissioner of Police,
Chennai Police

2.The Principal Secretary to the Government
of Tamil Nadu

Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.

Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS calling for the records in Memo No.59/BCDFGISSSV/2016 on the file of the first respondent, quash the detention order dated 5.2.2016 and direct the production of the detenu Shanmugam, son of Nagan presently detained at the Central Prison, Puzhal under the Tamil Nadu Act 14 of 1982 before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.A.M.Rahamath Ali

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

ORDER

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

This Habeas Corpus Petition has been filed, by the father of detenu, namely, Shanmugam, to issue a Writ of Habeas Corpus, to call for the entire records connected with the detention order of the first respondent, in No.59/BCDFGISSSV/2016, dated 5.2.2016 and quash the same and direct the respondents to produce the body and person of the petitioner's son by name Shanmugam, aged about 35 years

detained in Central Prison, Puzhal, Chennai, 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, Mr.A.M.Rahamath Ali, 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 M8 Sathangadu Police Station Crime No.85/2016. 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 M8 Sathangadu Police Station Crime No.85/2016, 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 05.02.2016, passed by the first respondent is set aside. The detenu is directed to be released, forthwith, unless, his presence is required in connection with any other case.

Sd/- सतयमेव जयते
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

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

2.The Commissioner of Police,
Chennai Police

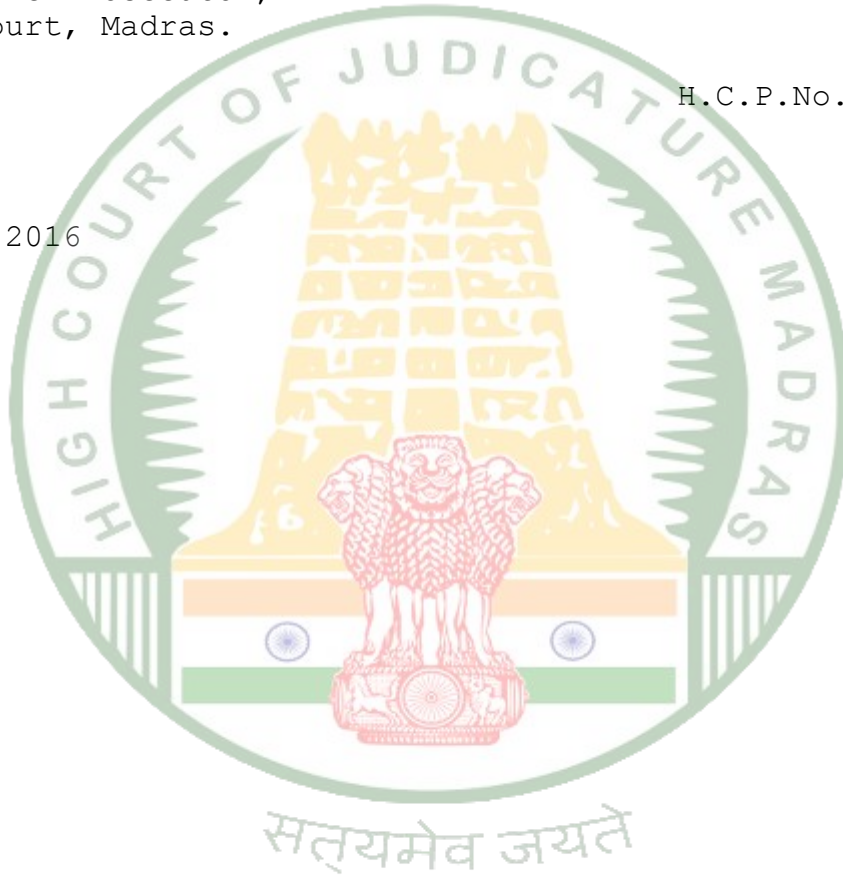
3.The Superintendent of Prison,
Central Prison,
Puzhal, Chennai.

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

5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.426 of 2016

gj co
kra 29.06.2016



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