

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2016

CORAM

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

H.C.P.No.429 of 2016

Ranganayagi

.. Petitioner

vs.

1. State of Tamilnadu

Rep. by The Secretary to Government,  
Home, Prohibition and Excise Department,  
Fort St. George, Chennai - 600 009.

2.The Commissioner of Police,  
Greater Chennai Police,  
Chennai.

.. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus calling for the records relating to the order of detention NO.1057/2015 BCDFGISSSV dated 30/09/2015 passed by the 2nd respondent and to quash the same and also to direct the detenu KARTHIK S/O.PACHAIAPPAN who is presently detained in the CENTRAL PRISON PUZHAI CHENNAI to be produced before this Hon'ble court and set at liberty.

For Petitioner : Mr.P.Sundarrajan

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 mother of detenu, namely, Karthik, to issue a Writ of Habeas Corpus, to call for the entire records connected with the detention order of the first respondent, in No.1057/BCDFGISSSV/2015, dated

30.09.2015 and quash the same and direct the respondents to produce the body and person of the petitioner's son by name Karthik, aged about 29 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, 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 T-3, Korattu Police Station Crime Nos.855 and 861 of 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 T-3, Korattu Police Station Crime Nos.855 and 861 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 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 30.09.2015, 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/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

The Secretary to Government,  
Home, Prohibition and Excise Department,  
Fort St. George, Chennai - 600 009.

2.The Commissioner of Police,  
Greater Chennai Police,  
Chennai.

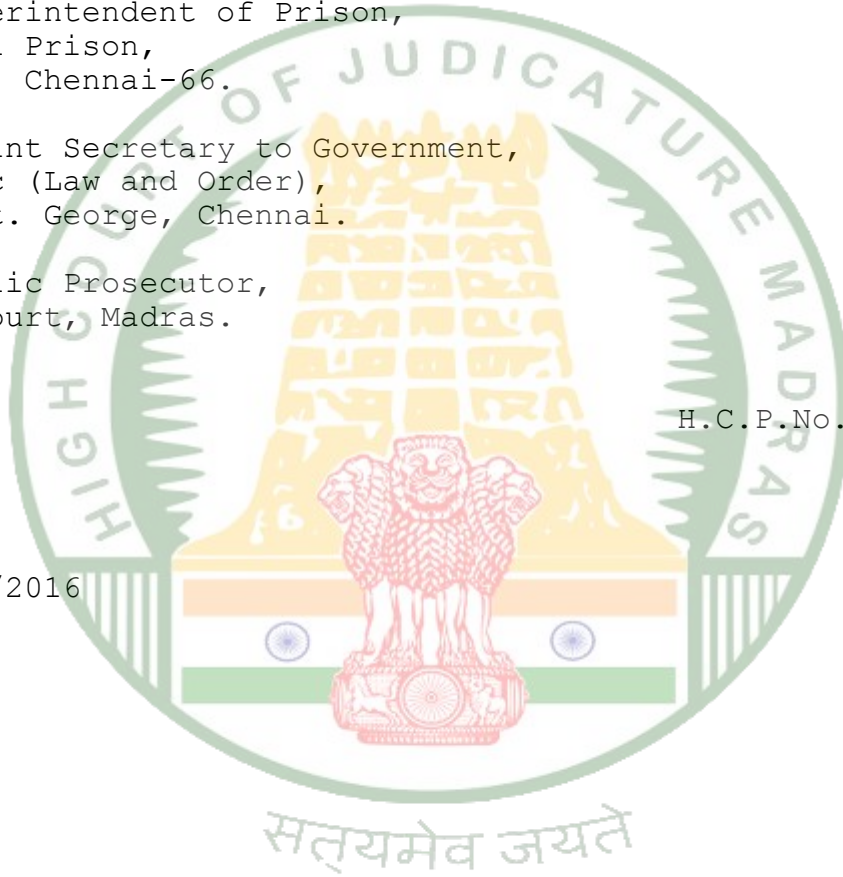
3.The Superintendent of Prison,  
Central Prison,  
Puzhal, Chennai-66.

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

5.The Public Prosecutor,  
High Court, Madras.

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