

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.05.2016

CORAM

THE HON'BLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

H.C.P.No.56 of 2016

Gajarani

... Petitioner

v.

1.State Rep. By
The Secretary to Government
Home Prohibition & Excise Department
Secretariat
Chennai 600 009.

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

... Respondents

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., Arone @ Arunbabu, who is now detained in Central Prison, Puzhal, Chennai in pursuance of the detention Order passed by the 2nd respondent on 11.12.2015 in Memo No.1241/BCDFGISSSV/2015 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.M.Maharaja
Addl. Public Prosecutor

O R D E R

[Order of the Court was made by K.KALYANASUNDARAM, J.]

This Habeas Corpus Petition is filed, by the mother of the detenu, namely, Arone @ Arunbabu, aged 23 years, S/o Babu, to issue a Writ of Habeas Corpus, to call for the records, in Memo No.1241/BCDFGISSSV/2015, dated 11.12.2015, passed by the 2nd 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.R.Ganesh, 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 ground case in Cr.No.1223/2015 and the adverse cases in Crime Nos.1214/2015 and 1219/2015 registered by the T-11, Thirunindravur 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 T-11, Thirunindravur Police Station Crime Nos.1214/2015, 1219/2015 and 1223/2015, 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 and no other material placed to show 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 11.12.2015, 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

gms

To

1.The Secretary to Government
Home Prohibition & Excise Department
Secretariat
Chennai 600 009.

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

3.The Superintendent,
Central Prison
Puzhal.

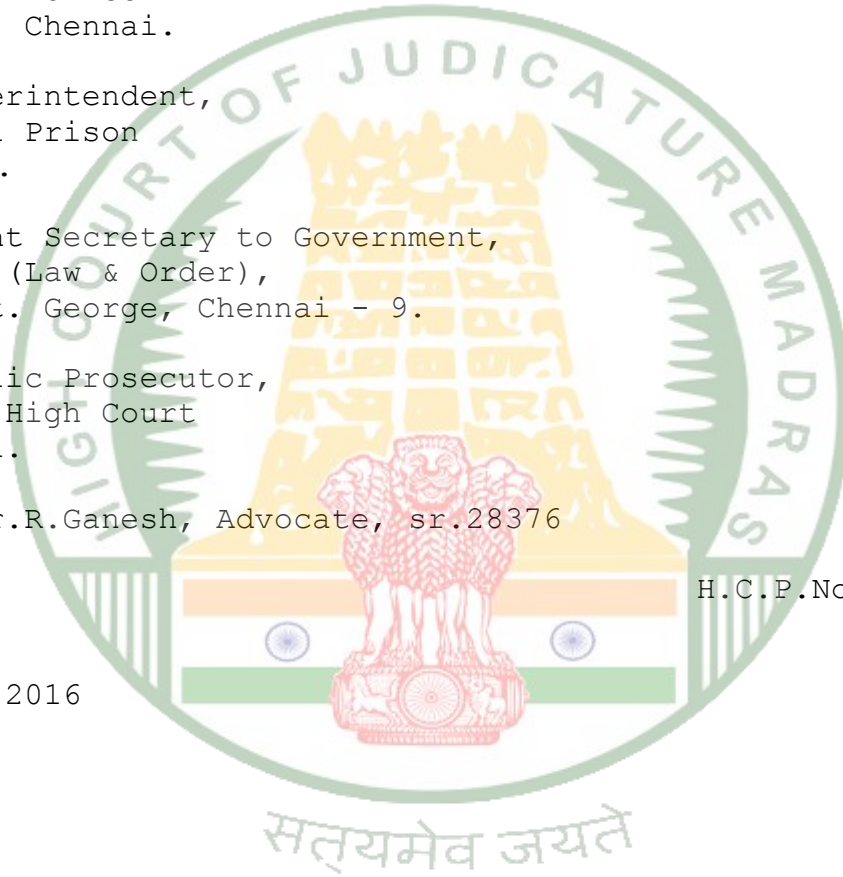
4.The Joint Secretary to Government,
Public (Law & Order),
Fort St. George, Chennai - 9.

5.The Public Prosecutor,
Madras High Court
Chennai.

1 cc to Mr.R.Ganesh, Advocate, sr.28376

H.C.P.No.56 of 2015

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