

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 3.11.2016

CORAM

THE HONOURABLE MR.JUSTICE M.JAICHANDREN
and
THE HONOURABLE MR.JUSTICE S.BASKARAN

H.C.P.No.710 of 2016

Kamalakaran

...Petitioner/Defence

Vs.

1.The Secretary to the Government
Home, Prohibition and Excise Department
Secretariat, Chennai-9.

2.Commissioner of Police
Greater Chennai Police.

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, directing the respondents to call for the records in Memo No.317/BCDFGISSSV/2016, dated 17.3.2016 on the file of the second respondent and quash the same as illegal and direct the respondents to produce the detenu Kamalakannan, Son of Varadhan Gounder, aged about 27 years, now confined in Central Prison, Puzhal-II, Chennai, and to set him at liberty.

For Petitioner : M/s.S.Senthilvel

For Respondents : Mr.V.M.R.Rajentren,
Additional Public Prosecutor

ORDER

[Order of the Court was made by S.BASKARAN, J.]

This Habeas Corpus Petition has been filed by the detenu, namely, Kamalakannan, son of Varadhan Gounder, aged about 27 years, to issue a Writ of Habeas Corpus, to call for the records, in Memo No.317/BCDFGISSSV/2016, dated 17.3.2016, passed by the second 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, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), branding him as a "Goonda", in the Central Prison, Puzhal, Chennai, and to quash the same and to direct the Respondents to produce the body of the detenu and to set him at liberty.

2. We have heard the learned counsel appearing on behalf of the petitioner, as well as 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 for the petitioner mainly contends that in the detention order, it is stated that in a case registered in Cr.No.308 of 2015 on the file of T-10 Thirumullaivoyal Police Station, for the offences under Sections 457 and 380 I.P.C., bail was granted by the Judicial Magistrate, Ambattur, however, a copy of the bail order was not furnished to the detenu, which had prevented the detenu from making an effective representation against the impugned order of detention. Thus, the detention order is vitiated and the same is liable to be quashed.

4. The above submission of the learned counsel appearing for the petitioner has been conceded by the learned Additional Public Prosecutor appearing for the respondents.

5. Considering the submissions made by the learned counsels appearing for the parties concerned and on a perusal of the records available, though in the detention order, it is stated that in a case registered in Cr.No.308 of 2015 on the file of T-10 Thirumullaivoyal Police Station, for the offences under Sections 457 and 380 I.P.C., bail was granted by the Judicial Magistrate, Ambattur, a copy of the bail order was not furnished to the detenu, which prevented him from making an effective representation against the impugned order of detention, dated 17.3.2016. Therefore, we are inclined to set aside the detention order.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 17.03.2016, 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 (CO)

/true copy/

Sub Asst. Registrar

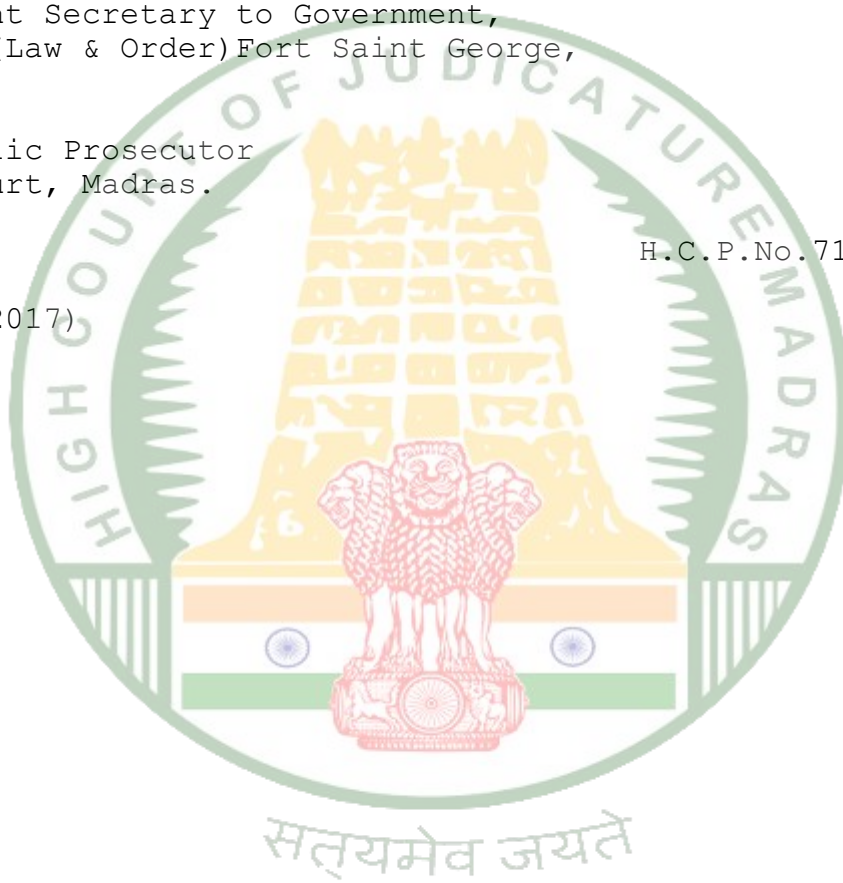
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To

- 1.The Secretary to the Government
Home, Prohibition and Excise Department
Secretariat, Chennai-9.
- 2.Commissioner of Police
Greater Chennai Police.
- 3.The superindent Central Prison,
Puzhal, Chennai. (Induplicate for communication to Detenue)
- 4.The Joint Secretary to Government,
Public (Law & Order)Fort Saint George,
Chennai.
- 5.The Public Prosecutor
High Court, Madras.

H.C.P.No.710 of 2016

PVS (CO)
GN(19/01/2017)



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