

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 18.10.2016

CORAM

THE HON'BLE Mr. JUSTICE M.JAICHANDREN

and

THE HON'BLE Mr. JUSTICE S.BASKARAN

H.C.P.No.906 of 2016

E.Desammal

.. Petitioner

Vs

1.State of Tamil Nadu,
Rep. by the Secretary,
Home [Prohibition and Excise Department],
Secretariat, Chennai-9.

2.The Commissioner of Police,
Greater Chennai Police,
O/o.The Commissioner of Police,
Veppery, Chennai-7.

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS to call for the records relating to the Detention Order No.236/BCDFGISSSV/2016 dated 03.03.2016 passed by the 2nd respondent under Tamil Nadu Act 14/1982 and quash the same and direct the respondent to produce the detenu Elangovan @ Elango, S/o.Muthulingam now confined in Central Prison, Puzhal before this Hon'ble Court and set the detenu, Elangovan @ Elango, S/o.Muthulingam set at liberty.

For Petitioner : Mr.M.Jai Ganesh

For Respondents : Mr.V.M.R.Rajentran, APP

O R D E R

[Order of the Court was made by M.JAICHANDREN. J.,]

This Habeas Corpus Petition has been filed by the wife of the detenu to issue a Writ of Habeas Corpus, challenging the Detention Order No.236/BCDFGISSSV/2016, dated 03.03.2016 passed by the 2nd respondent, detaining the detenu, namely, Elangovan @ Elango, aged about 27 years, S/o.Muthulingam, 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), the Tamil Nadu Act 14 of 1982, branding him as a "Goonda".

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.M.Jai 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 the detenu had filed a bail application in respect of the Ground Case in Crime No.119 of 2016 on the file of the Korukkupet Police Station and the same is pending before the learned Principal Sessions Court, Chennai in CrI.MP.No.3296 of 2016 and he has not filed any bail application in respect of the adverse case in Crime No.116 of 2016 registered on the file of the very same Police Station. However, it had been stated that the relatives of the detenu are taking action to take him out on bail, in the ground case by filing bail application before the appropriate Court. It had also been pointed out that no statement had been recorded from the relatives of the detenu, with regard to the claim that they are taking steps to move bail application, on behalf of the detenu in respect of the Ground Case and no such statement had been furnished to the detenu.

4. The said submissions made by the learned counsel appearing on behalf of the petitioner, had not been refuted by the learned Additional Public Prosecutor.

5. 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 in the Ground Case on behalf of the detenu, to take him out on bail. 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.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order No.236/BCDFGISSSV/2016, dated 03.03.2016, passed by the 2nd 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

/true copy/

Sub Asst. Registrar

gya

To

1.The Secretary,
State of Tamil Nadu,
Home [Prohibition and Excise Department],
Secretariat, Chennai-9.

2.The Commissioner of Police,
Greater Chennai Police,
O/o.The Commissioner of Police,
Veppery, Chennai-7.

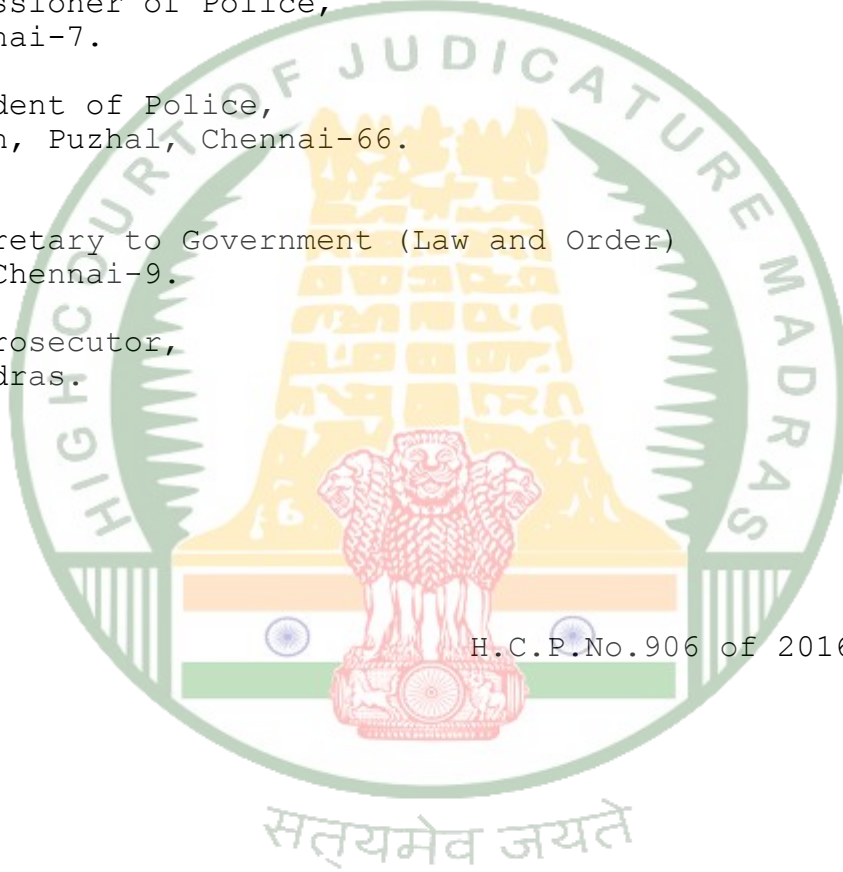
3.The Superintendent of Police,
Central Prison, Puzhal, Chennai-66.

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

5.The Public Prosecutor,
High Court, Madras.

CO-MV

ths : 04.11.2016



H.C.P.No.906 of 2016

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