

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2016

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN
and
THE HON'BLE MR.JUSTICE S.BASKARAN

H.C.P.No.969 of 2016

Mariamamma

... Petitioner / Mother of the
detenu

Vs

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

2.The 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, to call for the records in connection with the order of detention passed by the second respondent in his proceedings, dated 20.4.2016 in Memo No.448/BCDFGISSSV/2016 against the petitioner's son Ajikumar @ Ashok, son of Sudhakaran, aged about 35 years, who is confined at Central Prison, Puzhal-II, Chennai and to set aside the same and to direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.S.Senthilvel

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

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ORDER

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

This Habeas Corpus Petition has been filed by the mother of the detenu, namely, Ajikumar @ Ashok, son of Sudhakaran, aged about 35 years, to issue a Writ of Habeas Corpus, to call for the records, in BCDFGISSSV No.448/2016, dated 20.04.2016, 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 set him at liberty forthwith.

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 appearing on behalf of the petitioner, has 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 relatives of the detenu are taking steps to take him out on bail, in J-3 Guindy Police Station Crime No.448 of 2016, by filing a bail application before the appropriate Court. It had also been pointed out that no statements had been recorded from the relatives of the detenu with regard to the claim that they are taking steps to move a bail application, on behalf of the detenu and no such statements 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 appearing on behalf of the respondents.

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 a 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.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 20.04.2016, 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.

vvk

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Sd/-

Assistant Registrar (CS II)

/TRUE COPY/

Sub-Assistant Registrar

To

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

2.The Commissioner of Police,
Greater Chennai Police.

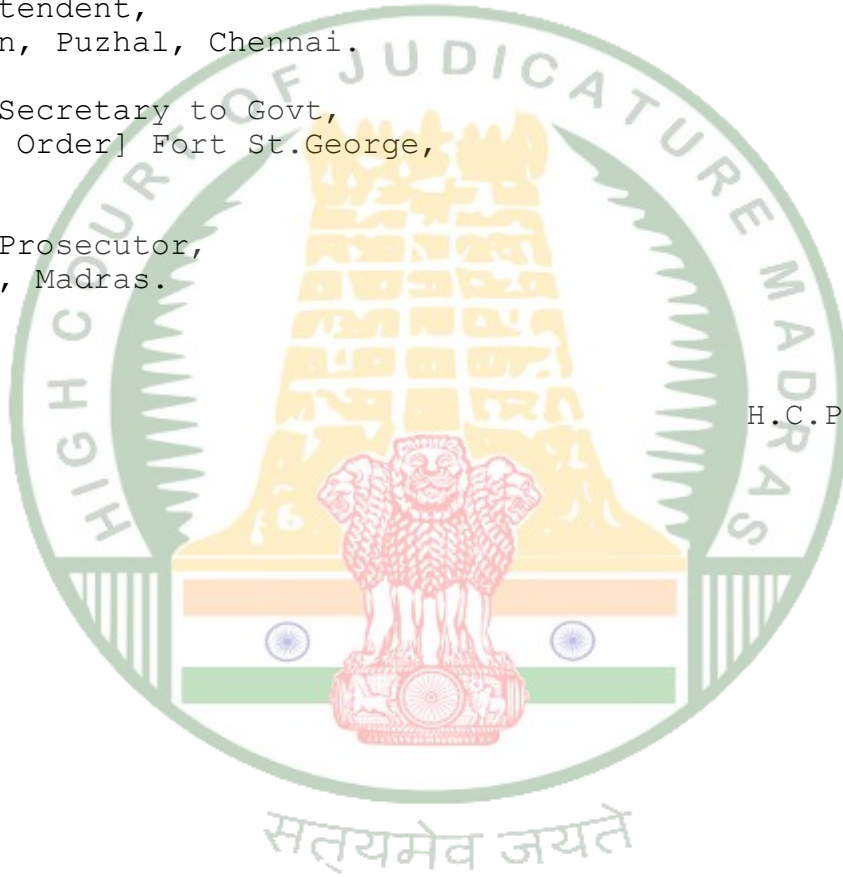
3.The Superintendent,
Central Prison, Puzhal, Chennai.

4. The Joint Secretary to Govt,
Public [Law & Order] Fort St.George,
Chennai-9.

5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.969 of 2016

VGI [CO]
MK:14/12/2016



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