

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.05.2017

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH  
and  
THE HON'BLE MR.JUSTICE R.SUBRAMANIAN

H.C.P.No.128 of 2017

J.Papu Kutti

... Petitioner

Vs

1. The State rep. by the  
rep. by its Secretary to Government (Home),  
Prohibition and Excise Department,  
Fort St.George  
Chennai 600 009.

2. The District Collector and Magistrate,  
Vellore District, Vellore.

... 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 pursuant to the detention order issued by the 2nd respondent vide No.C3/D.O.No.83/2016 dated 18.12.2016 and set aside the same and consequently, direct the respondents to produce the detenu Johni @ Johni Paulrajan, S/o.John Peter, aged about 29 years, son of the petitioner, now confined at Central Prison, Vellore before this Court and set him at liberty forthwith.

For Petitioner : Mr.Senthilvel  
for M/s.M.Sathish Kumar

For Respondents : Mr.E.Raja,  
Additional Public Prosecutor

ORDER

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

This Habeas Corpus Petition is filed, by the mother of the detenu, namely, Johni @ Johni Paulrajan, S/o.John Peter, aged about 29 years, to issue a Writ of Habeas Corpus, to call for the records, in No.C3/D.O.No.83/2016 dated 18.12.2016, 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, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14/1982), the Tamil Nadu Act 14 of 1982, branding him as a "Goonda", in the Central Prison, Vellore, and to quash the same and to direct the Respondents to produce the body of the detenu and set him at liberty forthwith.

2. The learned Counsel for the petitioner would invite the attention of this Court to the grounds of detention order wherein it is stated that the detenu has filed a bail petition in connection with a case in Vellore South (Law and Order) Police Crime No.559/2016 under Section Man Missing altered to 120(B), 395 read with 397, 364, 364-A, 365, 353, 147, 148, 149 and 302 IPC in Crime No.559/2016 in CrI.M.P.No.5182/2016 before the Sessions Court, Vellore to enlarge him on bail and the same is pending. But the detaining authority has not stated anything about the bail applications filed in the adverse cases in the order of detention which vitiates the order of detention. Therefore, the detention order is liable to be quashed.

3. The learned Additional Public Prosecutor is unable to show any material to refute the said contention of the learned Counsel for the petitioner. Therefore, we are in full agreement with the submissions of the learned Counsel for the petitioner.

4. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 18.12.2016, 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/-  
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

tsi

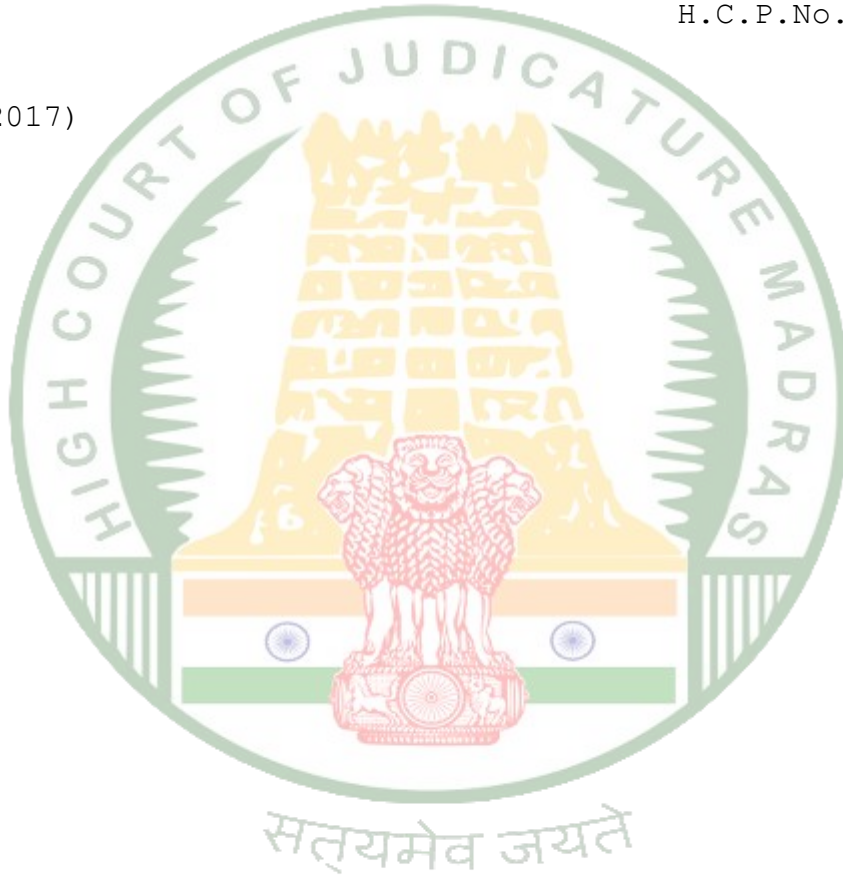
To

1. The Secretary to Government  
Prohibition and Excise Department (Home),  
Fort St.George  
Chennai 600 009.
2. The District Collector and Magistrate,  
Vellore District, Vellore.

3. The Superintendent of Police,  
Central Prison, Vellore.
4. The Joint Secretary to Government,  
Public(Law & Order),  
Fort Saint George, Chennai - 9.
5. The Additional Public Prosecutor,  
High Court, Madras.

H.C.P.No.128 of 2017

EV(CO)  
CA(05/06/2017)



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