

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.155/2017

S.Kasthuri ... Petitioner /
Mother of the Detenu
Vs

1. The Principal Secretary to Government
Home, Prohibition and Excise Department,
Fort St.George
Chennai 600 009.
2. The Commissioner of Police,
Greater Chennai,
Vepery, Chennai-7. ... 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 2nd respondent dated 28.11.2016 in Memo No.1189/BCDFGISSV/2016 against the petitioner's son Santhosh, son of Sampathraj, aged about 22 years, who is confined at Central Prison, Puzhal, Chennai and set aside the same and direct the respondents to produce the detenu before this Court.

For Petitioner : Mr.V.Paarthiban

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, Santhosh, son of Sampathraj, aged about 22 years, to issue a Writ of Habeas Corpus, to call for the records, in Memo No.1189/BCDFGISSV/2016 dated 28.11.2016, 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, 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. The learned Counsel appearing for the petitioner made only one substantial submission for quashing the detention order on the ground of non-application of mind. He submits that similar case relied upon by the detaining authority with respect to the order passed by the Principal District and Sessions Court, Thiruvallur in Crl.M.P.No.3522/2016 in respect of the Crime No.1001/2016 was under different footing. In the said case, there was no objection from the learned Public Prosecutor as it was submitted before that court that bail may be granted subject to stringent conditions.

3. The learned Additional Public Prosecutor would submit that the detention order has been passed on appreciation of relevant materials and therefore, no interference is required.

4. We have perused the order passed by the learned Principal District and Sessions Court, Thiruvallur in Crl.M.P.No.3522/2016. The said order lends credence to the submission made by the learned Counsel for the petitioner being one of concession and therefore, it was rendered not on contest. Hence, the reliance made on the above said order for passing the detention order cannot be sustained in the eye of law. Therefore, the detention order is liable to be quashed.

5. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 28.11.2016, 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

//True Copy//

Sub Assistant Registrar

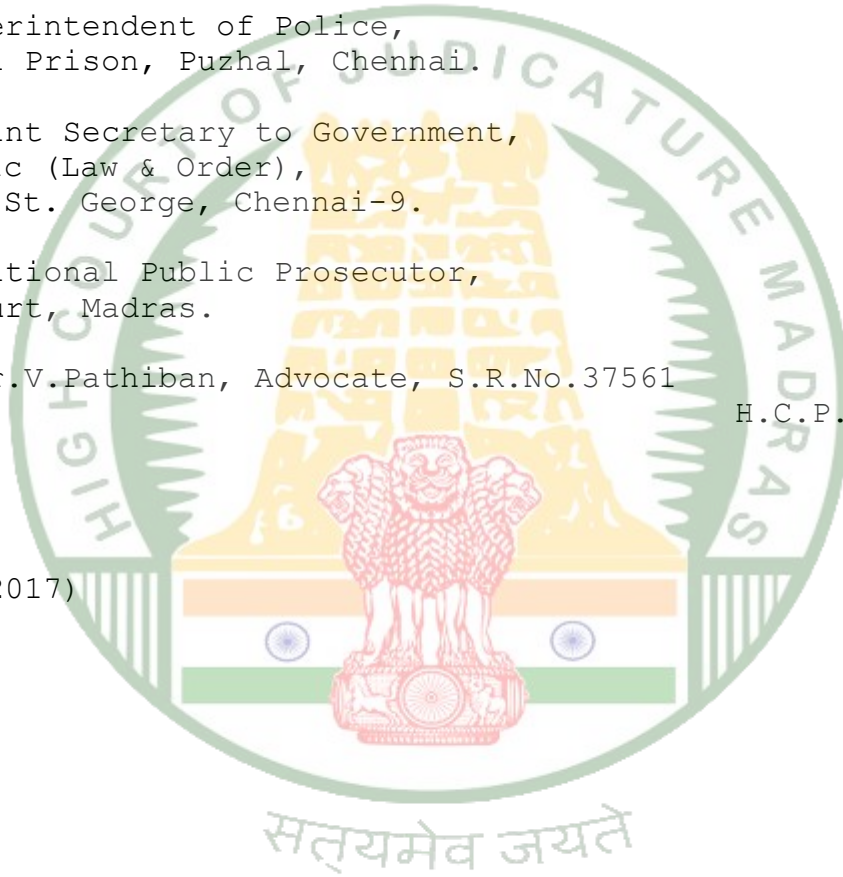
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To

1. The Principal Secretary to Government
Home, Prohibition and Excise Department,
Fort St.George
Chennai 600 009.
 2. The Commissioner of Police,
Greater Chennai,
Vepery, Chennai-7.
 - 3.The Superintendent of Police,
Central Prison, Puzhal, Chennai.
 4. The Joint Secretary to Government,
Public (Law & Order),
Fort St. George, Chennai-9.
 - 5.The Additional Public Prosecutor,
High Court, Madras.
- +lcc to Mr.V.Pathiban, Advocate, S.R.No.37561

H.C.P.No.155/2017

PVS (CO)
RS (08/06/2017)



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