

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.10.2017

CORAM:

THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER
and
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

H.C.P. No.1720 of 2017

Sakthi Vel

... Petitioner

-Vs-

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

2.District Magistrate &
District Collector,
Namakkal District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, to call for the records in connection with the order of Detention passed by the second respondent dated 02.11.2016 in C.M.P.No.35/goonda/2016/M1 against the petitioner son Mohankumar, male aged 23 years S/o.Sakthivel, who is confined at Central Prison, Salem, and set aside the same and direct the respondents to produce the detenu before the Hon'ble Court and set him at Liberty.

For Petitioner : Mr.D.Balaji,

For Respondents: Mr. V.M.R.Rajentran
Additional Public Prosecutor

O R D E R

[Order of the Court was made by N.SATHISH KUMAR, J.]

The petitioner is the father of the detenu, namely, Mohankumar, S/o.Sakthivel, male, aged about 23 years. The detenu has been detained by the second respondent by his order in C.M.P.No.35/goonda/2016/M1 dated 02.11.2016, holding him to be a "Goonda", as contemplated under sub Section 2 (f) of the Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.

2. We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondents. We have also perused the records produced by the Detaining Authority.

3. The learned counsel appearing for the petitioner has contended to the effect that as per the Detention Order, the detenu has been arrested in connection with Crime No.948 of 2016, registered under Sections 392, r/w 506(ii) IPC, on 11.10.2016, whereas after a lapse of 25 days, the Detention Order in question has been passed on 02.11.2016 and no proper explanation has been given on the side of the respondents with regard to such huge delay. Under the said circumstances, the Detention Order in question is liable to be quashed.

4. On the side of the respondents, no counter affidavit has been filed. The learned Additional Public Prosecutor submitted that the Sponsoring Authority has submitted all the relevant materials to the Detaining Authority. The Detaining Authority, after considering all the relevant materials, has derived a subjective satisfaction to the effect that the detenu is a goonda and passed the impugned Detention Order and altogether, the present petition deserves to be dismissed.

5. On a perusal of the impugned order of detention, we find that in the ground case registered in Crime No.948 of 2016, under Sections 392, r/w 506(ii) IPC, the detenu has been arrested on 11.10.2016, whereas the Detention Order in question has been passed on 02.11.2016. As rightly pointed out on the side of the petitioner/detenu, there is a delay of 25 days in passing the Detention Order and no explanation has been given on the side of the respondents. Under such circumstances, this Court is of the view that the grounds urged on the side of the petitioner/detenu are sufficient to quash the Detention Order in question.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in C.M.P.No.35/goonda/2016/M1 dated 02.11.2016, passed by the second respondent is set aside. The detenu, namely, Mohankumar, S/o.Sakthivel, male, aged about 23 years, is directed to be released forthwith unless his detention is required in connection with any other case. Given the nature of the case, this order will be communicated to the concerned Jail Superintendent by the Registrar General of this Court via Fax.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

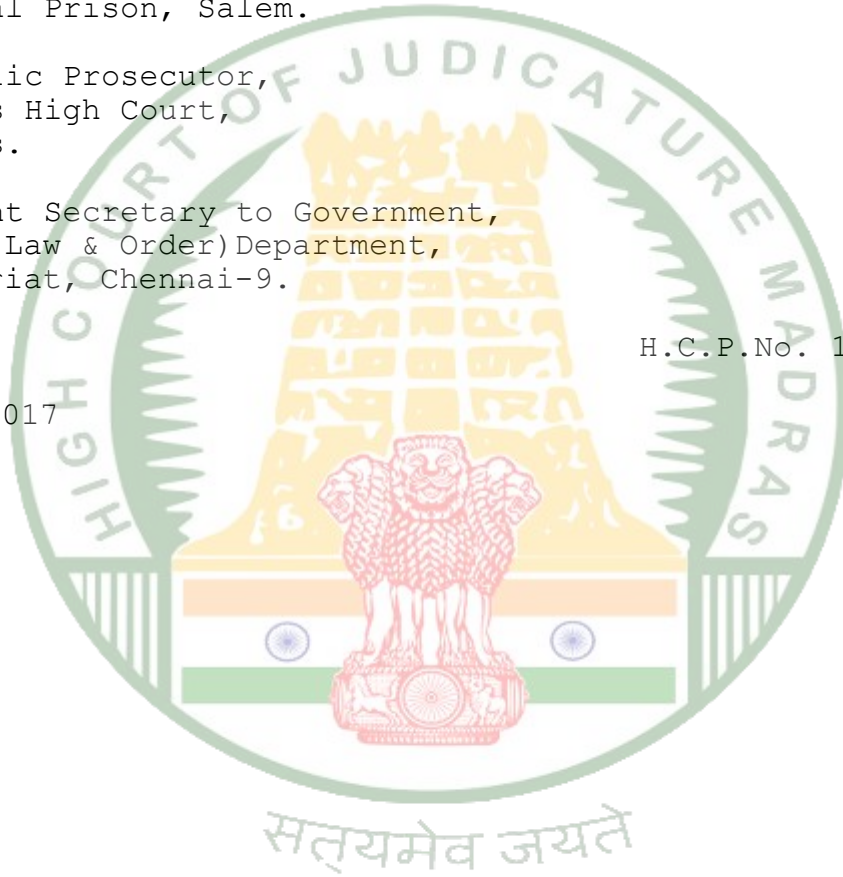
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To:

- 1.The District Magistrate & District Collector,
Namakkal District.
- 2.The Principal Secretary to Government
Government of India
Home Prohibition and Excise Department
New Delhi.
3. The Superintendent,
Central Prison, Salem.
- 4.The Public Prosecutor,
Madras High Court,
Madras.
- 5.The Joint Secretary to Government,
Public (Law & Order) Department,
Secretariat, Chennai-9.

H.C.P.No. 1720 of 2017

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