

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.31 of 2017

A.Amutha

... Petitioner

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.

... 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 29.11.2016 in Memo No.1196/BCDFGISSSV/2016 against the petitioner's son Ganesh, son of Appu, 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 and set him at liberty.

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, Ganesh, son of Appu, aged about 22 years, to issue a Writ of Habeas Corpus, to call for the records, in Memo No.1196/BCDFGISSSV/2016 dated 29.11.2016, 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 II,

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 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, 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 bail applications filed on behalf of the detenu in H8 Thiruvottiur Police Station Cr.Nos.1748/2016 and 1760/2016 were dismissed by the learned Principal District and Sessions Judge, Tiruvallur in CrI.M.P.Nos.4574 and 4514/2016 respectively. However, in the detention order, it had been stated that the relatives of the detenu are taking action to take him out on bail, in H8 Thiruvottiur Police Station Cr.Nos.1748/2016 and 1760/2016, by filing bail applications 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 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.

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 applications 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 29.11.2016, 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/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

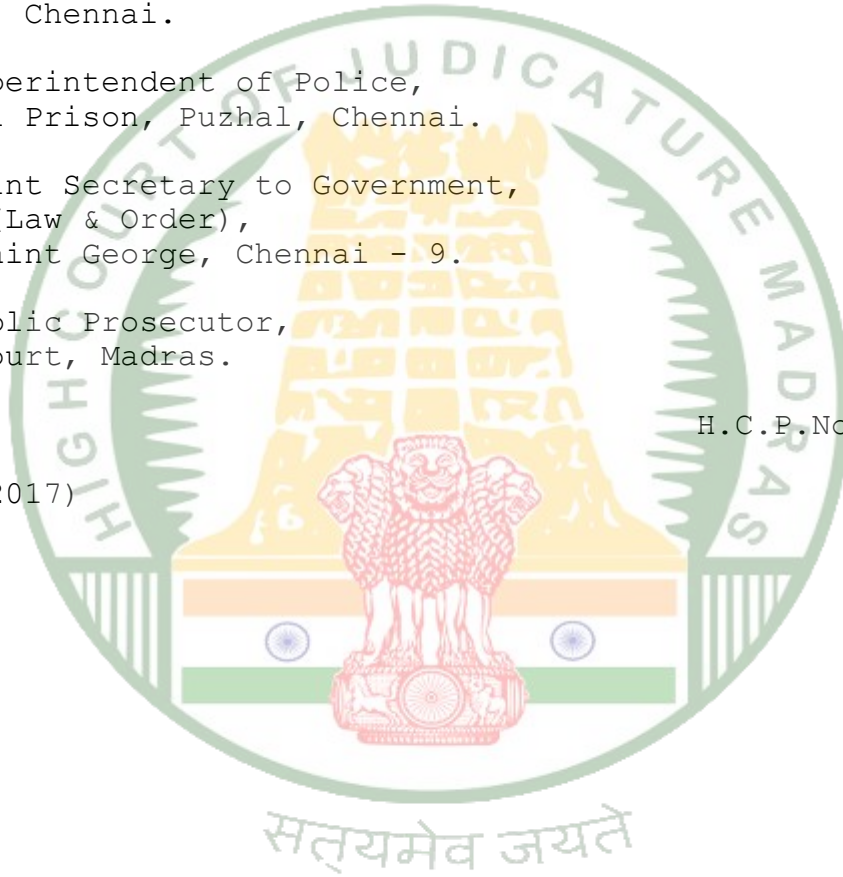
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To

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

H.C.P.No.31 of 2017

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



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