

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 12.05.2017

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THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN
and
THE HONOURABLE MR.JUSTICE S.BASKARAN

H.C.P No.470 of 2017

Chinnathaye

.. Petitioner

/versus/

- 1.State of Tamil Nadu Rep.by
The Secretary to Government,
Home, Prohibition & Excise Department,
Fort St.George, Chennai 600 009.
- 2.The District Magistrate,
and District Collector,
Namakkal District.
.. Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India to issue a Writ or order or direction and in particular to issue a Writ of Habeas Corpus to call for the records pertaining to the order of detention passed by the 2nd respondent in C.M.P.No.33/Goondas/2016/M1 dated 25.10.2016 and set aside the same and direct the respondents to produce the detenu the petitioner's son Krishnamoorthy, age about 39 years, S/o Ramasamy before this Court, now confined in Central Prison, Salem him at liberty.

For Petitioner :Mr.T.Muruganantham
For respondents :Mr.V.M.R. Rajentren,
Addl. Public Prosecutor

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ORDER

(Order of the Court was made by M.V.MURALIDARAN,J.,)

The petitioner, who is the mother of the detenu Krishnamoorthy, Son of late Ramasamy, has come up with this habeas corpus petition, challenging the detention order passed against Krishnamoorthy, by the second respondent, vide

proceedings C.M.P.No.33/Goondas/2016/M1, dated 25.10.2016.

2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the State and we have also perused the records carefully.

3. Though, several grounds were raised in the petition, the learned counsel appearing for the petitioner would mainly focus on the ground that though there was no bail application pending in Crime No.282/2016, the detaining authority has stated that in a similar case registered at Vennandur Police Station Crime No.106/2016 under Section 302 IPC bail was granted to the accused in C.M.P.No.21082/2016 on 20.09.2016 and hence, there is a real possibility of Thiru.Krishnamoorthy coming out on bail in this case also. The learned counsel pointed out that to arrive at such a conclusion, there was no material placed before the detaining authority at all.

4. On the said submission, this Court heard the submission of the learned Additional Public Prosecutor also.

5. We have considered the above submissions. Admittedly, as on the date of passing of the detention order, there was no application filed by the detenu seeking bail in Crime No.282/2016 on the file of Vennandur Police Station. But, the Detaining Authority has stated that in a similar case registered at Vennandur Police Station Crime No.106/2016 under Section 302 IPC, bail was granted to the accused in C.M.P.No.21082/2016 on 20.09.2016 and hence, there is a real possibility of the detenu coming out on bail in this case also. As such, in our considered view that the Detaining Authority has passed the order of detention without making proper application of mind relating to these facts. Therefore, we are inclined to set aside the same.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 25.10.2016 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 II)

//True Copy//

Sub Assistant Registrar

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To

1.State of Tamil Nadu Rep.by the Secretary to Government,
Home, Prohibition & Excise Department,
Fort St.George, Chennai 600 009.

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

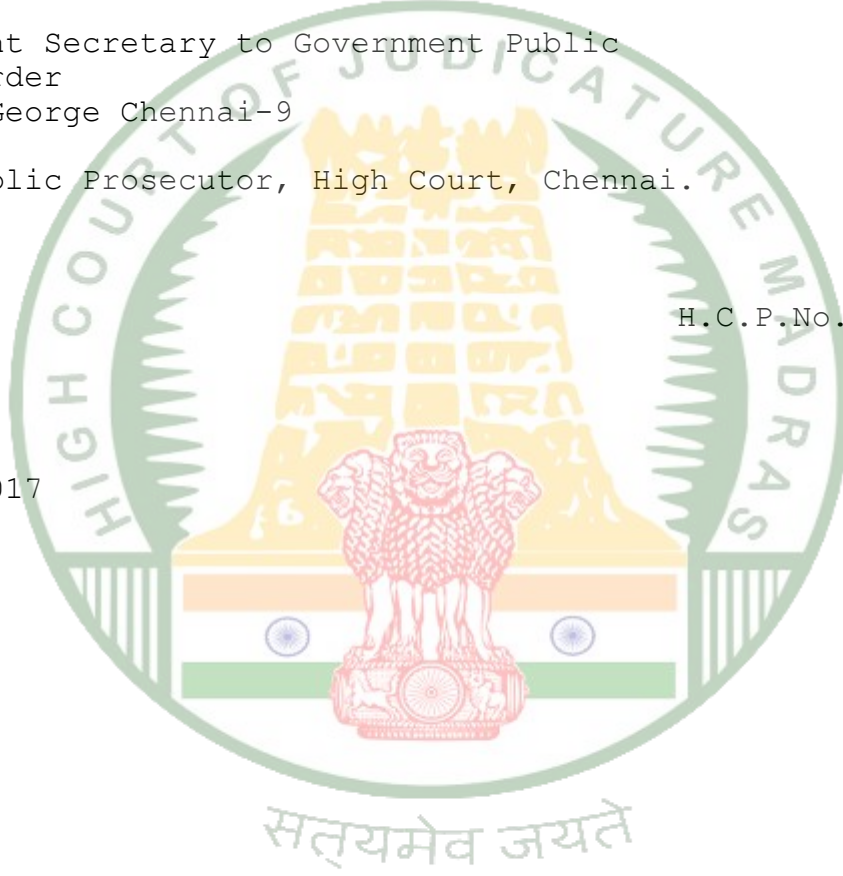
3. The Superintendent
Central Prison Salem

4.The Joint Secretary to Government Public
Law and Order
Fort St. George Chennai-9

5. The Public Prosecutor, High Court, Chennai.

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