

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2017

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN
and
THE HON'BLE MR.JUSTICE T.MATHIVANAN

H.C.P.No.1543 of 2016

Muneeswari

.. Petitioner

Vs

- 1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-600 009.
- 2.The Commissioner of Police,
Greater Chennai Police,
Office of the Commissioner of Police,
(Goondas Section),
Vepery, Chennai-600 007.
- 3.The Superintendent of Prison,
Central Prison, Puzhal, 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 entire records relating to the detention order passed by the second respondent in No.578/BCDFGISSSV/2016, dated 20.6.2016, and quash the same and to direct the respondents to produce the body and person of the petitioner's son Madhankumar @ Madhan, son of Balakrishnan, aged 24 years, detained in the Central Prison, Puzhal, Chennai, before this Court and to set him at liberty, forthwith.

For Petitioner : Mr.S.Mohamed Ansar

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

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ORDER

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

This Habeas Corpus Petition has been filed, by the mother of the detenu, namely, Madhankumar @ Madhan, aged about 24 years, son of Balakrishnan, praying that this Court may be pleased to issue a Writ of Habeas Corpus, to call for the records, in BCDFGISSSV No.578/2016, dated 20.6.2016, passed by the second respondent, detaining the detenu under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 (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 to 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 on behalf of the State and we have also perused the records, carefully.

3. Though, several grounds had been raised by the petitioner, while challenging the impugned order of detention, dated 20.6.2016, the learned counsel, appearing on behalf of the petitioner, had submitted that, in paragraph No.4 of the grounds of detention, it has been observed that in a similar case registered, in J-2 Adyar Police Station Crime No.62/2016, bail had been granted by the Court of Principal Sessions Judge, in CrI.M.P.No.1273 of 2016 and that there is a real possibility of the detenu coming out on bail, in S-10 Pallikaranai Police Station Crime Nos.1902/2016 and 2105/2016, which are the third adverse case and ground case, respectively, by filing fresh bail applications, before the appropriate court. It had been submitted by the learned counsel appearing on behalf of the petitioner that a copy of the F.I.R., relating to the similar case, in Crime No.62 of 2016, on the file of J-2 Adyar Police Station, had been furnished to the detenu, in page Nos.215 and 217, of the booklet supplied to him. However, the said F.I.R. copy is found illegible. Hence, the detenu had been prevented from making an effective representation against the impugned order of detention. Thus, the detention order is vitiated and the same is liable to be quashed.

4. The said submission made by the learned counsel appearing on behalf of the petitioner, had not been refuted by the learned Additional Public Prosecutor appearing on behalf of the respondents.

5. A perusal of the booklet supplied to the detenu, would show that the copy of the F.I.R., relating to the similar case, in Crime No.62 of 2016, on the file of J-2 Adayar Police Station, found in page Nos.215 and 217 of the booklet, is illegible. As such, we find that the furnishing of the illegible copy of the F.I.R. relating to the similar case, would prejudice the detenu, in making an effective representation against the impugned order of detention, dated 20.6.2016. Therefore, we are inclined to set aside the impugned detention order.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 20.6.2016, 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.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

vvk

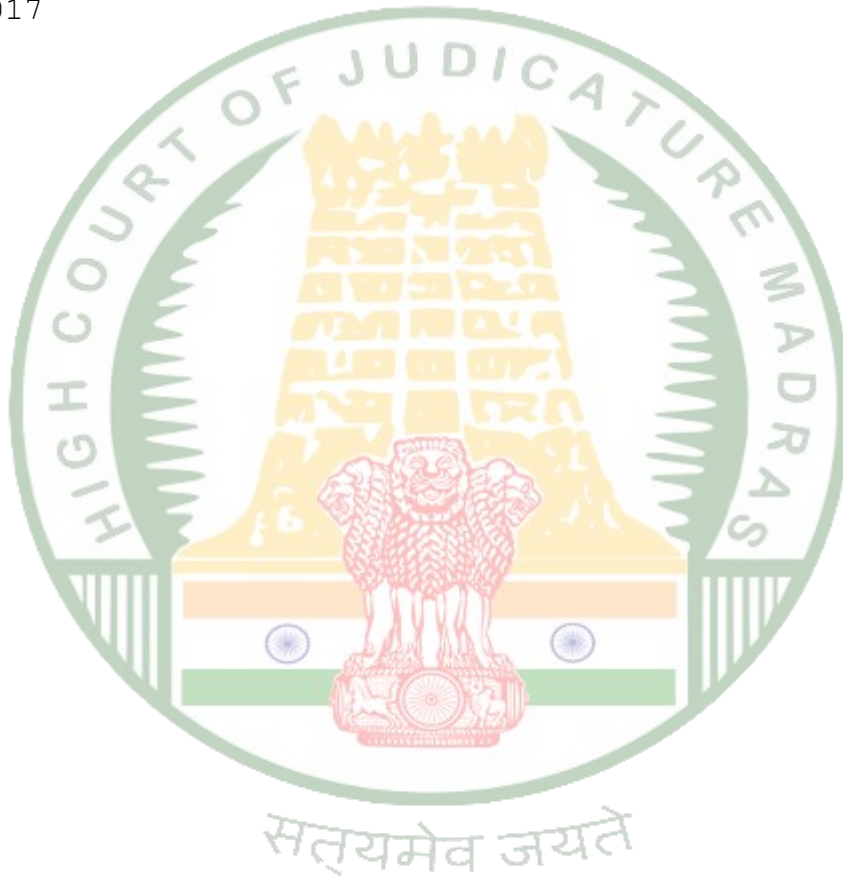
To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai-600 009
2. The Commissioner of Police,
Greater Chennai Police,
Office of the Commissioner of Police,
(Goondas Section),
Vepery, Chennai-600 007.
3. The Superintendent of Prison,
Central Prison, Puzhal, Chennai.
4. The Joint Secretary to Government
Public Law and order Fort St. George Chennai-9

5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.1543 of 2016

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