

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 15.03.2017

CORAM

THE HONOURABLE MR. JUSTICE S.NAGAMUTHU
and
THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

H.C.P No.1689 of 2016

Athu @ Niyamathullah,M/A-23

... Petitioner

Vs

1.State of Tamil Nadu,
Rep. by its Secretary to Govt. Home,
Prohibition and Excise Department,
Chennai-600 009.

2.The Commissioner of Police,
Vepery,
Chennai-600 007.

... Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the records relating to the detainee's detention order passed by the 2nd respondent in his order No.711/BCDFGISSSV/2016 dated 15/07/2016 approved by the 1st respondent and set aside the same and produce the detainee Athu @ Niyamathullah, male, aged 23 years, S/o. Sanaullah, now detained in Central Prison Puzhal Chennai, before this Court.

For Petitioner : Mr.B.Veeraragavan

For Respondent : Mr.V.M.R. Rajendran
Additional Public Prosecutor

ORDER

(Order of the Court was made by S. NAGAMUTHU,J.,)

This Habeas Corpus Petition has been filed by the detenu to issue a Writ of Habeas Corpus, to call for the records relating to the detainee's detention order passed by the 2nd respondent in his order No.711/BCDFGISSSV/2016 approved by the 1st respondent and set aside the same and produce the detainee Athu @ Niyamathullah, male, aged 23 years, S/o. Sanaullah, now detained in Central Prison Puzhal Chennai, before this Court.

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, Mr.B.Veeraraghavan, learned counsel appearing for 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 no bail application has been moved on behalf of the detenu, in respect of P-1 Pulianthope Police Station Cr.No.684/2016 so far. 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 respect of P-1 Pulianthope Police Station Cr.No.684/2016, by filing bail applications before the appropriate Court.

4.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 cases. 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.

5. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 15.07.2016, passed by the second respondent in No.711/BCDFGISSV/2016 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 V)

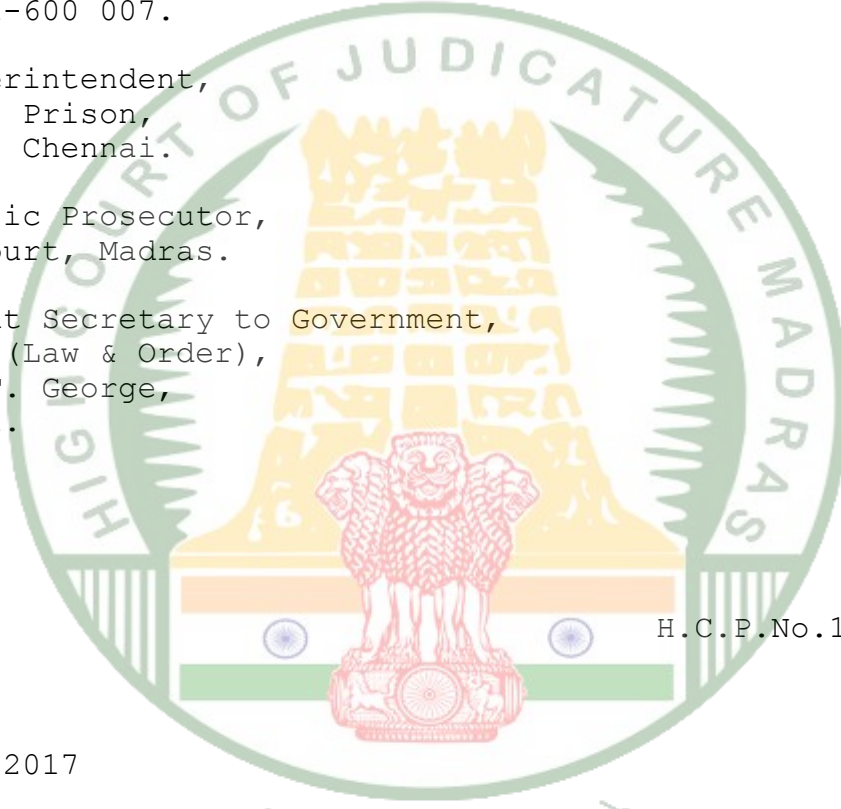
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Sub Assistant Registrar

jbm/stm

To

- 1.The Secretary to Government,
State of Tamil Nadu,
Home Prohibition and Excise Department,
Chennai-600 009.
- 2.The Commissioner of Police,
Vepery,
Chennai-600 007.
- 3.The Superintendent,
Central Prison,
Puzhal, Chennai.
- 4.The Public Prosecutor,
High Court, Madras.
- 5.The Joint Secretary to Government,
Public (Law & Order),
Fort ST. George,
Chennai.



H.C.P.No.1689 of 2016

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