

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2017

CORAM

THE HON'BLE MR.JUSTICE S.NAGAMUTHU

and

THE HON'BLE DR.JUSTICE ANITA SUMANTH

H.C.P.No.1742 of 2016

Karpagam

...Petitioner

versus

1.The Commissioner of Police,
Greater Chennai,
Vepery, Chennai.

2.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Madras - 600 009.

...Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, to call for the detention order of the petitioner's son Chandrasekar @ Rajasekar, son of Mr.Mani, presently lodged in Central Prison, Puzhal in BCDFGISSSV.No.525 of 2016, dated 01.06.2016, passed by the first respondent under T.N.Act 14/1982, set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.S.V.D.Rajendra Prasad

For Respondents : Mr.V.M.R.Rajentran

Additional Public Prosecutor

O R D E R

[Order of the Court was made by S.NAGAMUTHU,J.]

This Habeas Corpus Petition has been filed, by the mother of the detenu, namely, Chandrasekar @ Rajasekar, to issue a Writ of Habeas Corpus, to call for the records connected with the detention order of the first respondent, in Memo No. BCDFGISSSV.No.525 of 2016, dated 01.06.2016 and set aside the same and direct the respondents to produce the body and person of the petitioner's son, by name Chandrasekar @ Rajasekar, son of Mani, aged about 30 years, detained in Central Prison,

Puzhal, Chennai, before this Court and set him at liberty.

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.S.V.D.Rajendra Prasad, 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 no bail application has been moved on behalf of the detenu, in J-10 Semmanchery Police Station Crime No.488 of 2016. 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 J-10 Semmanchery Police Station Crime No.488 of 2016, by filing bail application 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 application, 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 01.06.2016, passed by the first 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

//True Copy//

Sub Assistant Registrar

sri

To

1.The Commissioner of Police,
Greater Chennai,
Vepery, Chennai.

2.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Madras - 600 009.

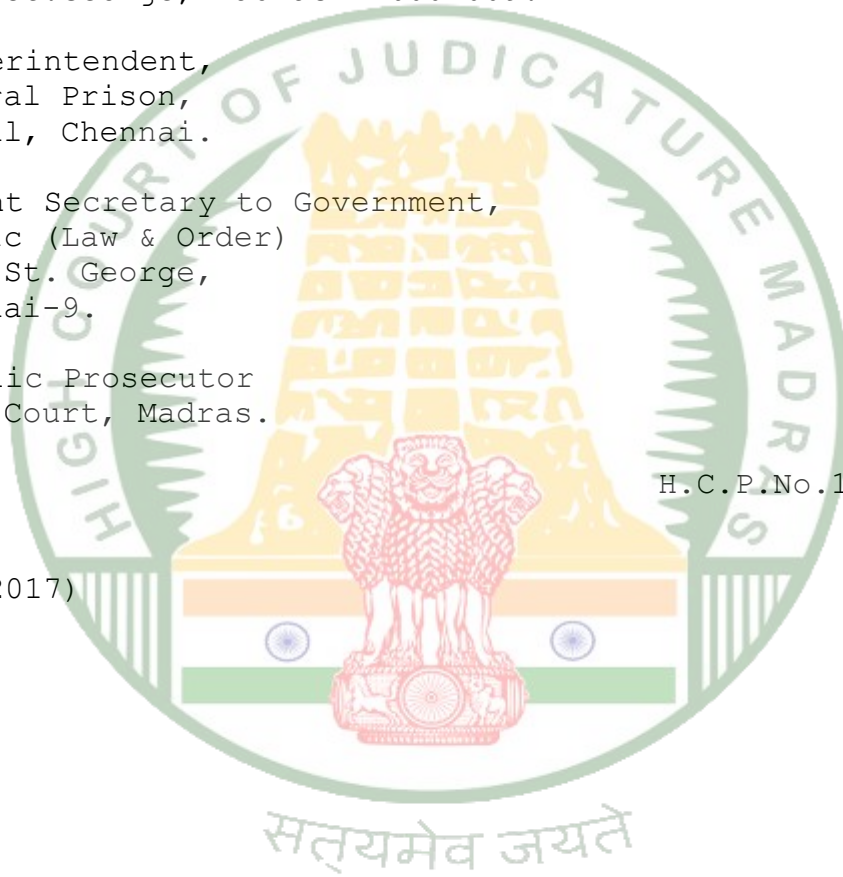
3.The Superintendent,
Central Prison,
Puzhal, Chennai.

4.The Joint Secretary to Government,
Public (Law & Order)
Fort St. George,
Chennai-9.

5.The Public Prosecutor
High Court, Madras.

H.C.P.No.1742 of 2016

GJ(CO)
RS(11/04/2017)



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