

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 15.03.2017

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THE HON'BLE MR.JUSTICE S.NAGAMUTHU

and

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

H.C.P.No.1901 of 2016

Asai Ponnu .. Petitioner/Defendant Wife
versus

- 1.State of Tamil Nadu,
Rep. by its Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600 009.
- 2.The Commissioner of Police,
Chennai Police (Goondas Section),
Vepery, Chennai - 600 007. .. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, to call for the entire records, related to petitioner's husband Azhaguvel, aged about 41 years under Tamil Nadu Act 14 of 1982 vide detention order, dated 10.08.2016 on the file of the second respondent herein made in proceeding No.872/BCDFGISSSV/2016, detained in Central Prison, Puzhal, Chennai, quash the same as illegal and consequently direct the respondents herein to produce him before this Court and set at liberty from detention.

For Petitioner : Mr.M.Krishnamoorthy

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

Additional Public Prosecutor

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O R D E R

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

This Habeas Corpus Petition has been filed, by the wife of the detenu, namely, Azhaguvel, to issue a Writ of Habeas Corpus, to call for the records connected with the detention

order of the second respondent, in Proceeding No.872/BCDFGISSSV/2016, dated 10.08.2016 and set aside the same and direct the respondents to produce the body and person of the petitioner's husband, by name Azhaguvel, son of Shanmugam, aged about 41 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.M.Krishnamoorthy, 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 T-3 Korattur Police Station Crime No.1003 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 T-3 Korattur Police Station Crime No.1003 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 10.08.2016, 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(CSIII)

True Copy

Sub-Assistant Registrar

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To

- 1.The Secretary,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600 009.
- 2.The Commissioner of Police,
Chennai Police (Goondas Section),
Vepery, Chennai - 600 007.
3. The Superintendent Central Prison,
Puzhal Chennai-7
4. The Joint Secretary to Government
Public Law and Order Fort St.George
Chennai-9
- 5.The Additional Public Prosecutor
High Court, Madras.

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H.C.P.No.1901 of 2016



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