

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.03.2017

CORAM

THE HON'BLE MR.JUSTICE S.NAGAMUTHU
and
THE HON'BLE DR.JUSTICE ANITA SUMANTH

H.C.P.No.1918 of 2016

Durai

... Petitioner

Versus

1. The 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,
Salem City.
 3. The Superintendent,
Borstal School, Pudukkottai.
- ... 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 leading to the detention of petitioner's son Sathi @ Sathiyamoorthy, son of Durai, aged 21 years, presently detained in Borstal School, Pudukkottai, under Act 14/1982, as a "Goonda" vide the detention order dated 05.07.2016 in C.M.P.No.46/ "Goonda"/Salem City/2016 on the file of the second respondent herein, directing to produce body or the person of the detenu before this Court and thereafter set him at liberty from the Borstal School, Pudukkottai, by setting aside the above order.

For Petitioner : Mr.B.Vasudevan

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 father of the detenu, namely, Sathi @ Sathiyamoorthy, to issue a Writ of Habeas Corpus, to call for the entire records connected with the detention order of the second respondent, in

C.M.P.No.46/"Goonda"/Salem City/2016, dated 05.07.2016 and set aside the same and direct the respondents to produce the body and person of the petitioner's son, by name Sathi @ Sathiyamoorthy, son of Durai, aged about 21 years, detained in Borstal School, Pudukkottai, 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.B.Vasudevan, 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.5 of the order of detention, that no bail application has been moved on behalf of the detenu, in Ammapet Police Station Crime No.169 of 2016 and Annadanapatty Police Station Crime No.213 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 Ammapet Police Station Crime No.169 of 2016 and Annadanapatty Police Station Crime No.213 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 05.07.2016, 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 VIII)

//True Copy//

Sub Assistant Registrar

sri

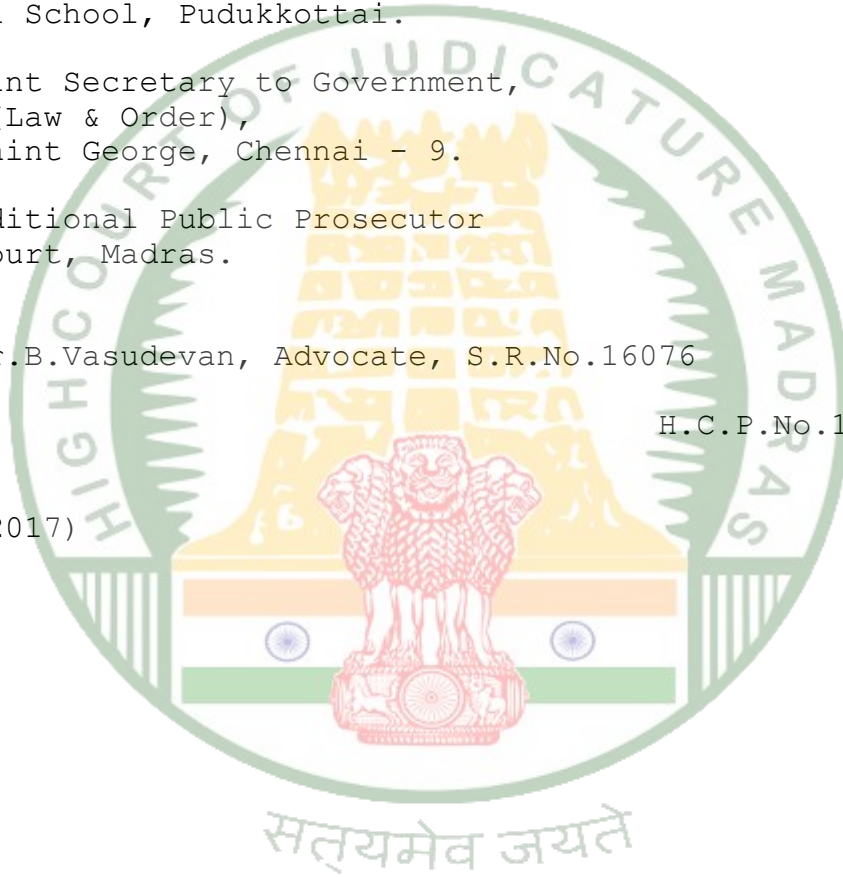
To

1. The Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600 009.
2. The Commissioner of Police,
Salem City.
3. The Superintendent,
Borstal School, Pudukkottai.
4. The Joint Secretary to Government,
Public(Law & Order),
Fort Saint George, Chennai - 9.
5. The Additional Public Prosecutor
High Court, Madras.

+1cc to Mr.B.Vasudevan, Advocate, S.R.No.16076

H.C.P.No.1918 of 2016

RR(CO)
CA(06/04/2017)



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