

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.04.2017

CORAM

THE HONOURABLE MR. JUSTICE S.NAGAMUTHU
and
THE HONOURABLE DR.JUSTICE ANITA SUMANTH

H.C.P No.1935 of 2016

Devit

...Petitioner

Vs

1. State of Tamil Nadu represented by
The Secretary to the Government,
Home Prohibition & Excise Department,
Secretariat, Chennai - 600 009
2. The Commissioner of Police,
Greater Chennai, Chennai .. Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India to issue a Writ, order or Direction in the nature of a Writ of Habeas Corpus to call for the records relating to the detention order passed by the second respondent pertaining to the order made in BCDFGISSSV No.816/2016 dated 02.08.2016 detaining the detenu under 2(F) of Tamil Nadu Act of 1982, as a Goonda and quash the same and direct the respondents to produce the detenu Arokiyaraj, Son of Sowrimuthu, aged about 42 years who is detained at the Central Prison, Puzhal before this Court.

For Petitioner : Mr. P. Sundararajan

For respondents: Mr.V.M.R. Rajentren
Addl. Public Prosecutor

ORDER

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

The petitioner, who is the brother of the detenu Arokiyaraj, has come up with this habeas corpus petition, challenging the detention order passed against Arokiyaraj by the second respondent, vide proceedings No. BCDFGISSSV No.816/2016 dated 02.08.2016.

2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the State and we have also perused the records carefully.

3. Though, several grounds were raised in the petition, the learned counsel appearing for the petitioner would mainly focus on the ground that though there was no bail application pending in Crime Nos.486 of 2016 and 487/2016 the detaining authority has stated that the relatives of the detenu were taking steps to file bail application, in which case there was real possibility of the detenu coming out on bail. The learned counsel pointed out that to arrive at such a conclusion, there was no material placed before the detaining authority at all.

4. The learned Additional Public prosecutor would submit that in the Special report submitted by the Inspector of Police, there is a statement to the effect that the relatives of the detenu were taking steps to file bail application seeking bail in connection with the case in Crime Nos.486/2016 and 487/2016.

5. We have considered the above submissions. Admittedly, as on the date of passing of the detention order, there was no application filed by the detenu seeking bail in Crime Nos.486/2016 and 487/2016 on the file of R-2, Kodambakkam Police Station. Though it is alleged that his relatives were taking steps to file an application for bail, there were no materials available before the detaining authority, except the report of the Inspector of Police. Even the report of the Inspector of Police does not spell out as to how he came to know that the relatives were taking steps to file application seeking bail. Full details as to who are those relatives, who were taking steps to file bail application also have not been mentioned. Thus, in our considered view, without making proper application of mind relating to these facts, the detaining authority has passed the detention order. Therefore, we are inclined to set aside the same.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 02.08.2016, 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.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

To

1. The Secretary to the Government,
State of Tamil Nadu,
Home Prohibition & Excise Department,
Secretariat, Chennai - 600 009

2. The Commissioner of Police,
Greater Chennai, Chennai

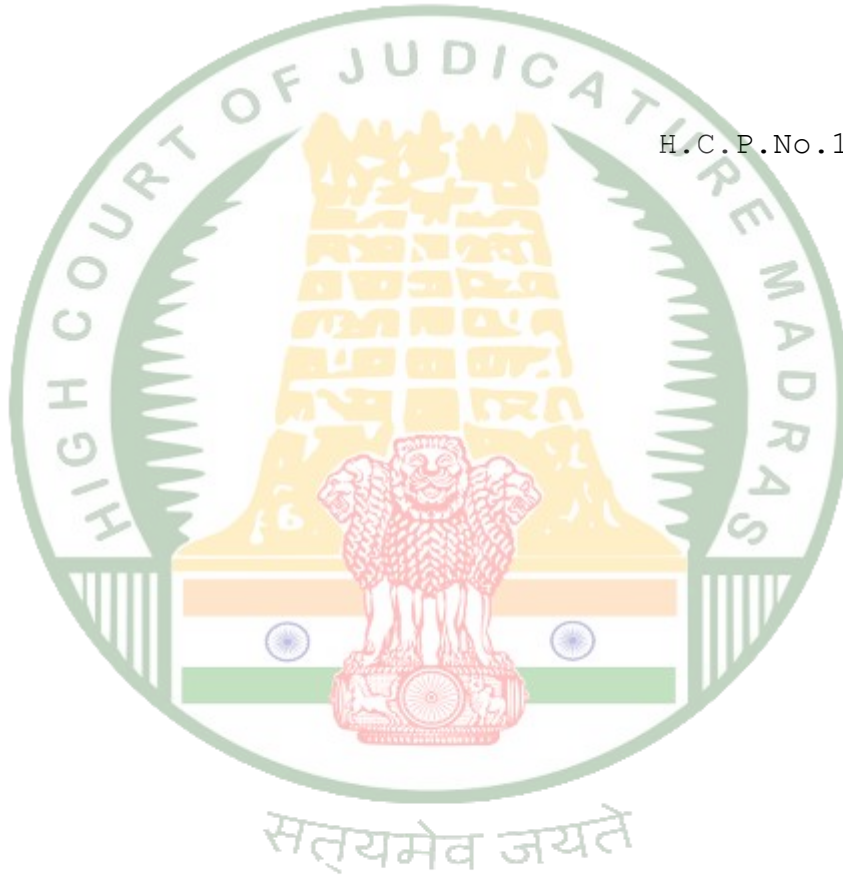
3.The Superintendent, Central Prison,
Puzhal, Chennai.

4.The Joint Secretary to Government,
Public (L&O) Fort St.George, chennai.

5.The Public Prosecutor,
High Court, Madras.

mp(co)
krd 19/4

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