

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2017

CORAM

THE HON'BLE MR.JUSTICE S.NAGAMUTHU

and

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

H.C.P.No.1946 of 2016

M.Babu ... Petitioner/Brother of the
Detenue
versus

1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.

2.Commissioner of Police,
Greater Chennai Police. ... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, to call for the records in connection with the order of detention passed by the second respondent dated 18.08.2016 in Memo No.922/BCDFGISSSV/2016 against the petitioner's brother Venkatesan, Male, aged 29 years, son of Mani, who is confined at Central Prison, Puzhal-II, Chennai and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.S.Senthilvel

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

Additional Public Prosecutor

W E B C O P Y
O R D E R

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

This Habeas Corpus Petition has been filed, by the brother of the detenu, namely, Venkatesan, to issue a Writ of Habeas Corpus, to call for the records connected with the detention order of the second respondent, in Memo No.922/BCDFGISSSV/2016, dated 18.08.2016 and set aside the same and direct the respondents to produce the body and person of the petitioner's brother, by name Venkatesan, son of Mani, aged

about 29 years, detained in Central Prison, Puzhal-II, 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.Senthilvel, 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-8 Neelankarai Police Station Crime No.1174 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-8 Neelankarai Police Station Crime No.1174 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 18.08.2016, 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/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

sri
To

1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.

2. Commissioner of Police,
Greater Chennai Police.

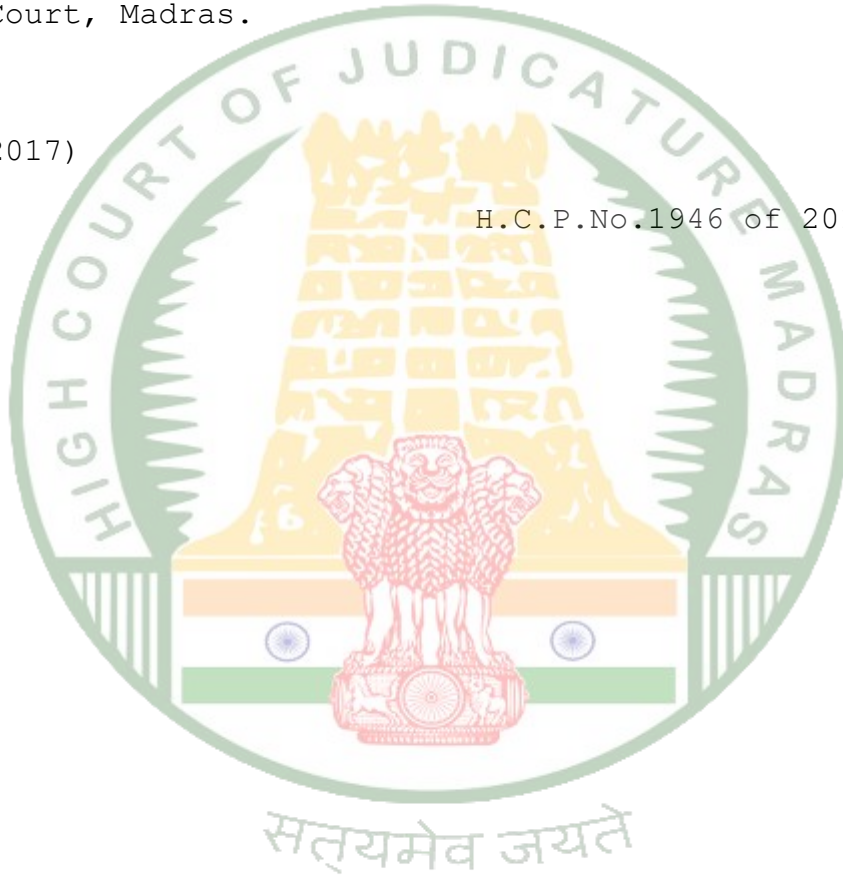
3 The Superintendent
Central Prison, Puzhal, Chennai

4 The Joint Secy., to Govt.,
Public Law & Order
Fort St. George, Chennai 9

5. The Additional Public Prosecutor
High Court, Madras.

pvs (CO)
md(11/04/2017)

H.C.P.No.1946 of 2016



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