

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.1965 of 2016

Parisha

.. 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,
Chennai Police, 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 leading to the detention of the petitioner's son, Sadiq Basha, son of Sheik Dawood, male, aged about 43 years is presently lodged in Central Prison, Puzhal, Chennai and has been detained under Act 14/82 as a "Goonda" vide detention order 30.07.2016 on the file of the second respondent herein, made in BCDFGISSSV.No.813/2016 quash the same and consequently direct the respondents herein to produce the body and person of the said detenu before this Court and thereafter, set him at liberty from the Central Prison, Puzhal, Chennai.

For Petitioner : Mr.T.V.Somasundram

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 mother of the detenu, namely, Sadiq Basha, to issue a Writ of Habeas Corpus, to call for the entire records connected with the detention order of the second respondent, in Memo No.813/BCDFGISSSV/2016, dated 30.07.2016 and quash the same and direct the respondents to produce the body and person of the petitioner's son, by name Sadiq Basha, son of Sheik Dawood,

male, aged about 43 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.T.V.Somasundram, 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 M-8 Sathangadu Police Station Crime No.661 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 M-8 Sathangadu Police Station Crime No.661 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 20.07.2016, passed by the second respondent is quashed. The detenu is directed to be released, forthwith, unless, his presence is required in connection with any other case.

Sd/-

Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

To

1.The Secretary to Government,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600 009.

2.The Commissioner of Police,
Chennai Police, Vepery,
Chennai - 600 007.

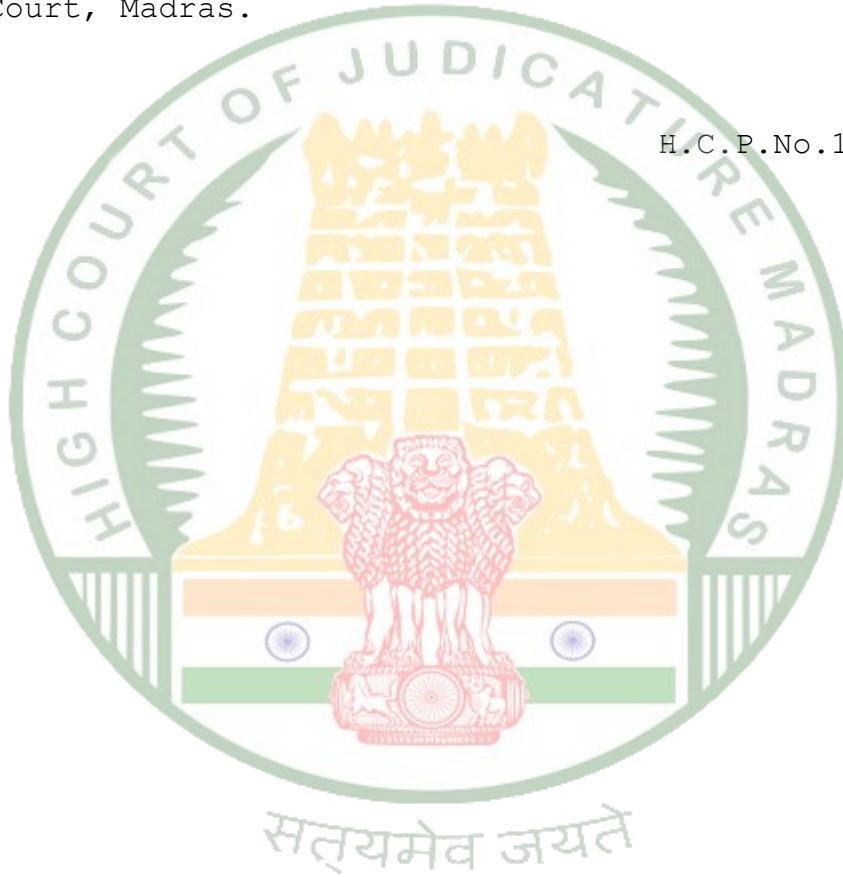
3.The Superintendent, Central Prison, Puzhal,
Chennai.

4.The Joint Secretary to Govt.
Public (L&O) Fort St.george, Chennai.

5.The Public Prosecutor
High Court, Madras.

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krd 5/4

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