

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20.03.2017

CORAM

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

H.C.P No.1966 of 2016

Thilaga

...Petitioner

Vs

1. State Rep. By
The 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

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 of the petitioner's son Karthik S/o Dhanraj Male, Aged about 24 years is presently lodged in Central Prison Puzhal at Chennai and has been detained under Act 14 of 1982 as "Goonda" vide detention order dated 28.04.2016 on the file of the second respondent herein made in BCDFGISSSV No./488/2016 quash the same and consequently direct the respondents herein to produce the body and person of the said detainee before this Court.

For Petitioner : Mr.T.V. Somasundaram

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

ORDER

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

The petitioner is the mother of the detainee Karthik, aged about 24 years. The second respondent, by its Proceedings dated 28.04.2016 has detained under Act 14 of 1982, branding her as "Goonda". Challenging the same, the petitioner has come out with this petition.

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. A perusal of the record would show that as against the detenu, there were four criminal cases pending. They were taken into account by the detaining authority while considering the necessity for detaining him under the Act. The records also revealed that he filed application, seeking bail in connection with all four cases and the same are also pending. The Detaining Authority had come to the conclusion that there were real possibility of the detenu coming out on bail. This conclusion was arrived based on the fact that in a similar case, in respect of some other person, the Court had granted bail.

4. The learned counsel for the petitioner would point out that though there are four cases pending against the detenu and though all the four cases are different in nature, the detaining authority had not considered the similar case, particularly, in respect of all the four cases. But the authority had considered the similar case. When that be so, as rightly contended by the learned counsel, it is not known as to how the detaining authority had come to the conclusion that in those cases, there is real possibility of the detenu coming out on bail. This would reflect the non application of mind on the part of the detaining authority. Hence, we have no hesitation in quashing the order of detention on the above mentioned ground.

5. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order in Memo No. BCDFGISSSV No./488/2016 dated 28.04.2016 passed by the 2nd 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

True Copy

Sub-Assistant Registrar

sr

To

1. The Secretary to Government, Home,
State of Tamil Nadu
Prohibition and Excise Department,
Fort St. George, Chennai-600 009
2. The Joint Secretary to Government Public(Law & Order)
Fort St.George, Chennai-9.

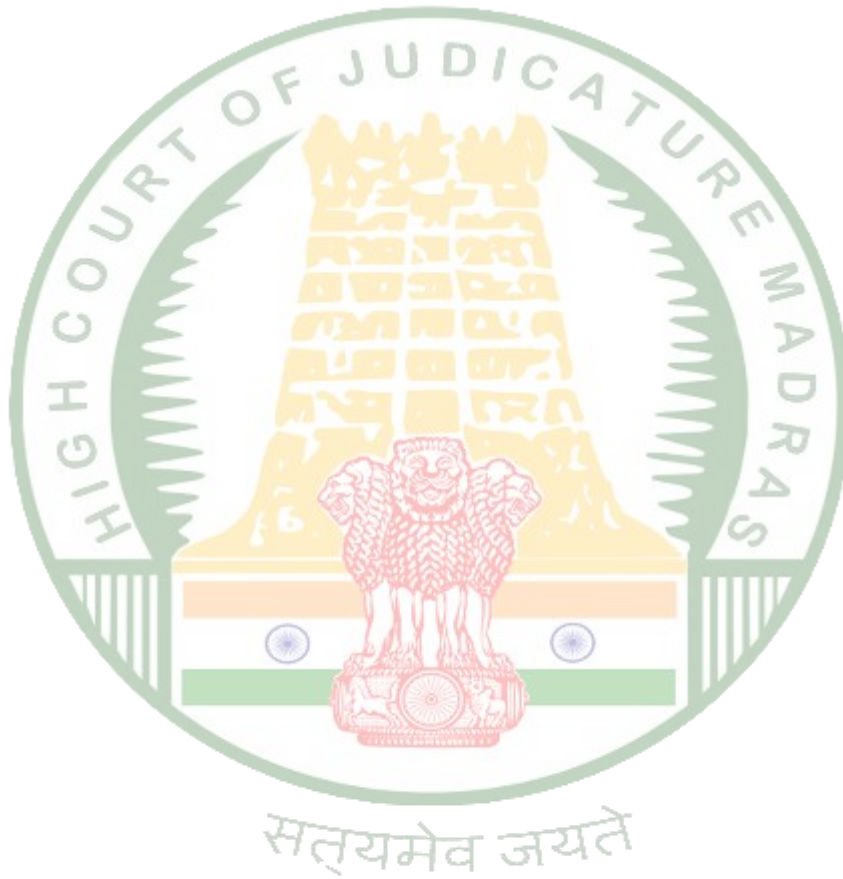
3.The Superintendant Central Prison.

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

5. The Public Prosecutor, High Court, Chennai.

HCP No.1966 of 2016

LRS (CO)
GN (04/04/2017)



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