

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.2081 of 2016

E. Mohan @ Fighter Mohan

...Petitioner

Vs

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-600 009
2. The Commissioner of Police,
Greater Chennai.
Office of the Commissioner of 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 directing the respondents to produce the body of the detenu - E. Mohan @Fighter Mohan S/o Elumalai, aged 27 years, resident of No.3/132, Muthalamman Koil, 3rd Street, Kottivakkam Kuppam, Chennai-600 041, now detained in the Central Prison, Puzhal-II, as TPDA 8224 in pursuance to the Detention Order No.BCDFGISSSV No.703/2016 dated 15.07.2016 passed by the second respondent.

For Petitioner : Mr.R. Karunakaran

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

ORDER

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

The petitioner is the detenu. The second respondent, by his Proceedings No.BCDFGISSSV No.703/2016 dated 15.07.2016 detained him under Act 14 of 1982 and branded as "GOONDA". Challenging the same, the petitioner has come up with this Habeas Corpus 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 five 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 five 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 five cases pending against the detenu and though all the five cases are different in nature, the detaining authority had not considered the similar case, particularly, in respect of all the five 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. No.BCDFGISSSV No.703/2016 dated 15.07.2016 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

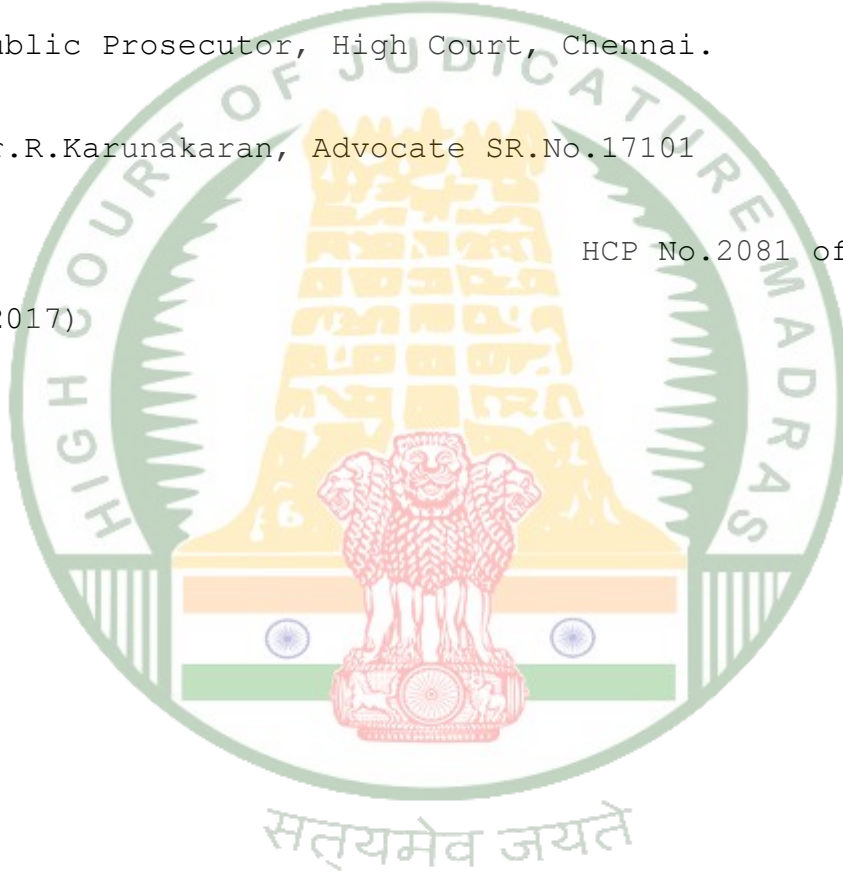
1. The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-600 009

2. The Commissioner of Police,
Greater Chennai.
Office of the Commissioner of Police,
Vepery, Chennai - 600 007 .
3. The Superintendant,
Central Prison, Puzhal, Chennai.
4. The Joint Secretary to Government,
Public(Law and Order),
Fort Jaint George, Chennai-9.
5. The Public Prosecutor, High Court, Chennai.

+1cc to Mr.R.Karunakaran, Advocate SR.No.17101

HCP No.2081 of 2016

NMI (CO)
GN(05/04/2017)



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