

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2017

CORAM

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

H.C.P.No.2184 of 2016

D.Thara ... Petitioner/Wife of the Detenue
vs.

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

2.Commissioner of Police,
Greater Chennai Police

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus to call for the records in connection with the order of detention passed by the second respondent dated 07.09.2016 in Memo No.1039/BCDFGISSSV/2016 against the petitioner husband Devaraj, male aged 39 years s/o Madhavan, 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.Rajentren,
Additional Public Prosecutor

ORDER

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

The petitioner has come up with this Habeas Corpus Petition challenging the detention order passed by the second respondent in No.1039/BDFGISSSV/2016 dated 07.09.2016 detaining one Thiru Devaraj, aged 39 years son of Madhavan under Act 14 of 1982 branding him as "Goonda".

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

3.The learned counsel for the petitioner would contend that as per the impugned order, there were as many as three adverse cases against the detenu. In all the three adverse cases, the detenu was arrested and remanded to judicial custody. But, the detaining authority has referred to only two adverse cases viz., first and third adverse cases and not the second adverse case. It is the further contention of the learned counsel that the detaining authority had come to the conclusion that there was real possibility of the detenu coming out on bail in the first and third adverse cases. The detaining authority had no occasion to consider whether any bail application was moved by the detenu in respect of the second adverse case and whether there is real possibility of the detenu coming out on bail in this case. Thus, the satisfaction arrived at by the detaining authority that there is a compelling necessity to detain the detenu in order to prevent him from indulging in similar crimes in future does not reflect application of mind. In such view of the matter we are inclined to quash the impugned order.

4.Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order in No.1039/BCDFGISSSV/2016 dated 07.09.2016 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.

-s/d-

Assistant Registrar (CS-II)

True Copy

Sub-Assistant Registrar

To

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

2.Commissioner of Police,
Greater Chennai Police

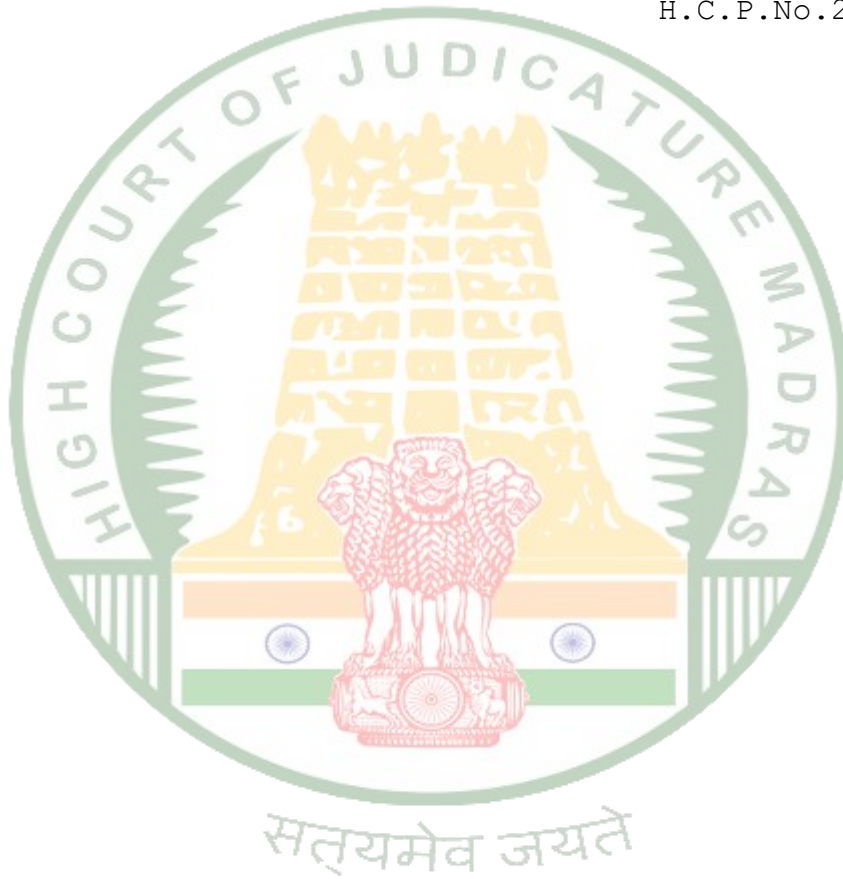
3. The Superintendent
Central Prison
Puzhal, Chennai

4. The Secretary to Government
Public (Law & Order)
Fort.St. George
Chennai 9

5. The Public Prosecutor,
High Court, Madras.

H.C.P.No.2184 of 2016

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