

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 26.04.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice J.A.K.SAMPATHKUMAR

Habeas Corpus Petition No.132 of 2006

Jaya

... Petitioner

Vs.

1. The Secretary to the Government,
Prohibition and Excise Department,
Fort St. George, Chennai-600 009.
2. The Commissioner of Police,
Greater Chennai,
Egmore, Chennai-8.

... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to call for the records setting aside the detention order passed by the second respondent in BDFGISV No.529/2005 dated 28.11.2005 and direct the second respondent to produce the body of the petitioner's son viz., Mahi @ Mahendran @ Mahendrakumar S/o Sundaramoorthy, now confined in Central Prison, Chennai before this Court and set him at liberty.

For Petitioner : Ms.N.Bhuvaneswari

For Respondents: Mr.AbuDhukumar Rajarathinam
Govt. Advocate (Crl. Side)

O R D E R

(Order of the Court was made by P.SATHASIVAM, J.)

The petitioner, who is the mother of the detenu by name Mahi @ Mahendran @ Mahendrakumar, who was detained as a "Goonda" as contemplated under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 28.11.2005, challenges the same in this Petition.

2. Heard learned counsel for the petitioner as well as learned

Government Advocate for the respondents.

3. At the foremost, learned counsel appearing for the petitioner submitted that though the petitioner herein made the pre-detention representation on 20.11.2005 to the detaining authority, which was duly acknowledged by the said authority on 21.11.2005, the same was not considered while passing the order of detention, which vitiates the ultimate order passed by him.

4. The learned Government Advocate on verification of the records, has admitted that though the representation dated 20.11.2005 has been received, the same was not considered by the detaining authority.

5. In the light of the admitted factual position and in view of the settled legal position that the pre-detention representation has to be considered by the detaining authority, since the same was received prior to the passing of the detention order, we are of the view that the impugned detention order is liable to be quashed and accordingly quashed.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith from the custody unless he is required in some other case or cause.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

raa

To

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

2. The Commissioner of Police, Greater Chennai, Egmore, Chennai-8.

3. The Superintendent, Central Prison, Chennai.

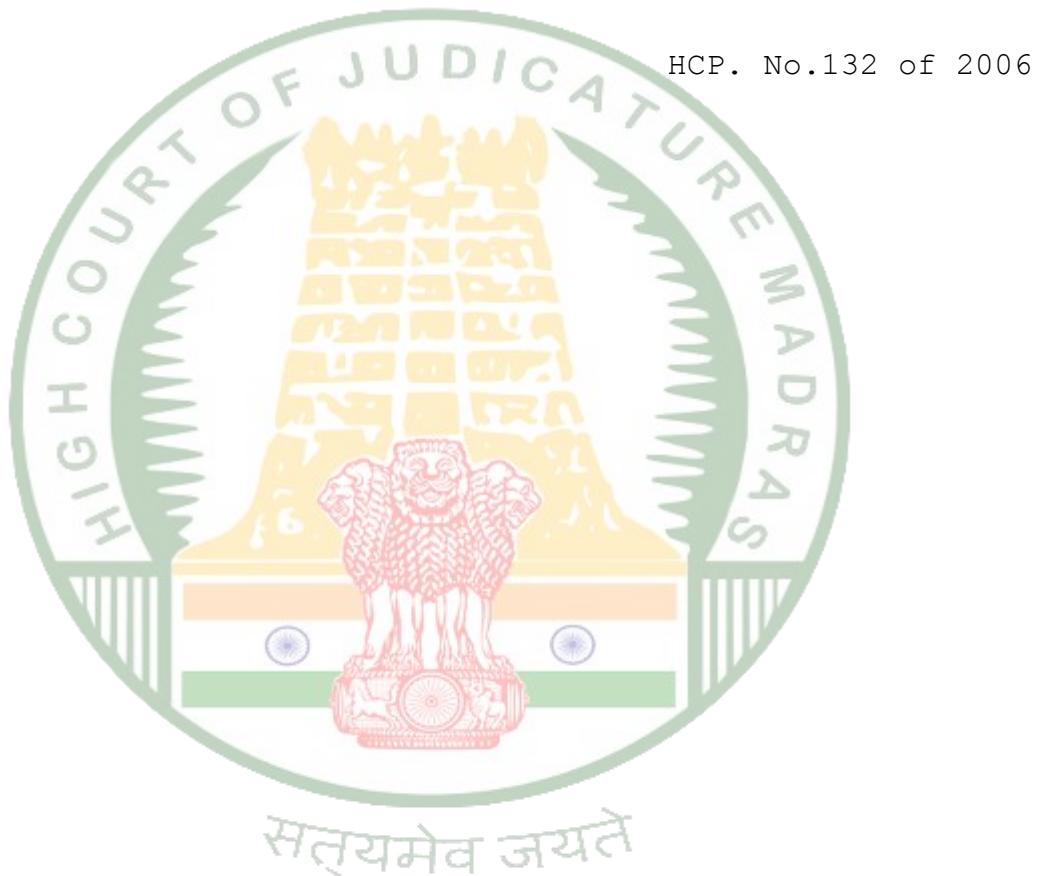
(In duplicate for communication to the petitioner)

4. The Joint Secretary to Government, Public (Law and Order)
Fort St. George, Chennai-9.

5. The Public Prosecutor, High Court, Madras.

+lcc to Mr.P.Murugesan, Advocate Sr 22915

NTK (CO)
km/10.5.



HCP. No.132 of 2006

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