

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2015

CORAM

THE HONOURABLE DR.JUSTICE S.TAMILVANAN
and
THE HONOURABLE MR.JUSTICE C.T.SELVAM

H.C.P.No.1306 of 2015

Rama Devi
W/o.Ramakrishnan

..Petitioner

vs.

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

2.The Commissioner of Police,
Chennai City.

..Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus calling for the records in connection with the order of detention passed by the second respondent in Memo No.388/BCDFGISSSV/2015 dated 09.05.2015, against the petitioner's daughter Supriya, female aged 28 years, W/o.Krishna Chaitanya, who is confined at Special Prison for Women, Puzhal, Chennai and set aside the same and direct the respondents to produce the before this Court and set her at liberty.

For Petitioner : Mr.A.E.Kalaiselvan

For Respondents : Mr.M.Maharaja

Additional Public Prosecutor

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O R D E R

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

Petitioner is the mother of the detainee, who has been branded as a "Goonda" under the Tamil Nadu Act 14 of 1982 and detained under orders of second respondent passed in Memo No.388/BCDFGISSSV/2015 dated 09.05.2015.

2. As per the grounds of detention dated 09.05.2015, passed by second respondent, the detainee came to adverse notice in the following cases:

S1 No.	Name of the Police station and Crime No.	Section of law
1	R-1 Mambalam Police Station, Crime No.624 of 2014	420 IPC
2	R-1 Mambalam Police Station, Crime No.812 of 2014	406 and 420 IPC
3	R-1 Mambalam Police Station, Crime No.991 of 2014	406 and 420 IPC
4	R-1 Mambalam Police Station, Crime No.992 of 2014	406, 420 and 120 IPC
5	R-1 Mambalam Police Station, Crime No.1299 of 2014	406 and 420 IPC

The alleged ground case has been registered against the detainee on 11.04.2015 by the R-1 Mambalam Police Station, in Crime No.2087 of 2015 for offences under Sections 406, 420, 323, 294 (b), 392 r/w 397 and 506(ii) IPC. Aggrieved by the order of detention, the present writ petition has been filed.

3. Amidst several contentions, learned counsel for petitioner drew the attention of this Court to paragraph No.4 of the grounds of detention. The same reads as follows:

"4. I am aware that Tmt.Supriya is in remand in R-1 Mambalam Police Station Crime Nos.624/2014, 812/2014, 991/2014, 992/2014, 1299/2015 and 2087/2015 and she has moved a bail application for R-1 Mambalam Police Station Crime No.2087/2015 before the Court of Principal Sessions, Chennai, in Crl.M.P.No.6356/2015 and the same was dismissed on 28.04.2015. Again, she has moved a bail application for R-1 Mambalam Police Station Crime No.2087/2015 before the Court of Principal Sessions, Chennai, in Crl.M.P.No.7377/2015 and the same is pending. She has filed bail applications for R-1 Mambalam

Police Station Crime Nos.624/2014, 812/2014, 991/2014, 992/2014 and 1299/2015 before the Court of XVII Metropolitan Magistrate Court, Saidapet, Chennai - 15 in CrI.M.P.Nos.449/2015, 446/2015, 451/2015, 448/2015 and 450/2015 respectively and the same are pending. Similarly in a case registered under Section 420 IPC at R-1 Mambalam Police Station Crime No.1632/2015 bail was granted by the XVII Metropolitan Magistrate Court, Saidapet, Chennai, in CrI.M.P.No.460/2015. It is pertinent to note that in a case registered at R-4 Soundarpandiyanar Angadi Police Station Cr.No.384/2015 under Sections 341, 392, 397, 294 (b), 336, 427 and 506(ii) IPC bail was granted by the Court of Principal Sessions Court, Chennai in CrI.M.P.No.2805/2015. Hence, I infer that it is very likely of her coming out on bail in R-1 Mambalam Police Station Crime Nos.624/2014, 812/2014, 991/2014, 992/2014, 1299/2015 and 2087/2015 since in similarly placed cases bails are granted by courts after a lapse of time. If she comes out on bail, she will indulge in further activities, which will be prejudicial to the maintenance of public order. ..."

4. Learned counsel for petitioner submits that the detaining authority has informed a real possibility of her coming out on bail since in a similar case viz., Crime No.1632 of 2015 on the file of R-1 Mambalam Police Station, bail was granted by the XVII Metropolitan Magistrate Court, Saidapet, Chennai, in CrI.M.P.No.460 of 2015. The detention order has been passed on 09.05.2015. However, the copy of bail order in the similar case relied on, has been obtained by the detaining authority only on 14.05.2015, which could be seen in page No.331 of the booklet furnished to the detainee. It is, therefore, submitted that the same reflects non-application of mind on the part of the detaining authority in passing the detention order.

5. We have heard learned Additional Public Prosecutor on the above submissions.

6. Finding that the subjective satisfaction arrived at by the detaining authority is erroneous and for the reasons put forth by learned counsel for the petitioner, this Court would allow the present petition.

Accordingly, the impugned detention order passed by second respondent, detaining the detainee, namely, Supriya, aged 28 years, W/o.Krishna Chaitanya, made in Memo

No.388/BCDFGISSSV/2015 dated 09.05.2015, is quashed and the Habeas Corpus Petition is allowed. The above named detainee is ordered to be set at liberty forthwith, unless her custody is required in connection with any other case.

sd/
ASSISTANT REGISTRAR (CCC)

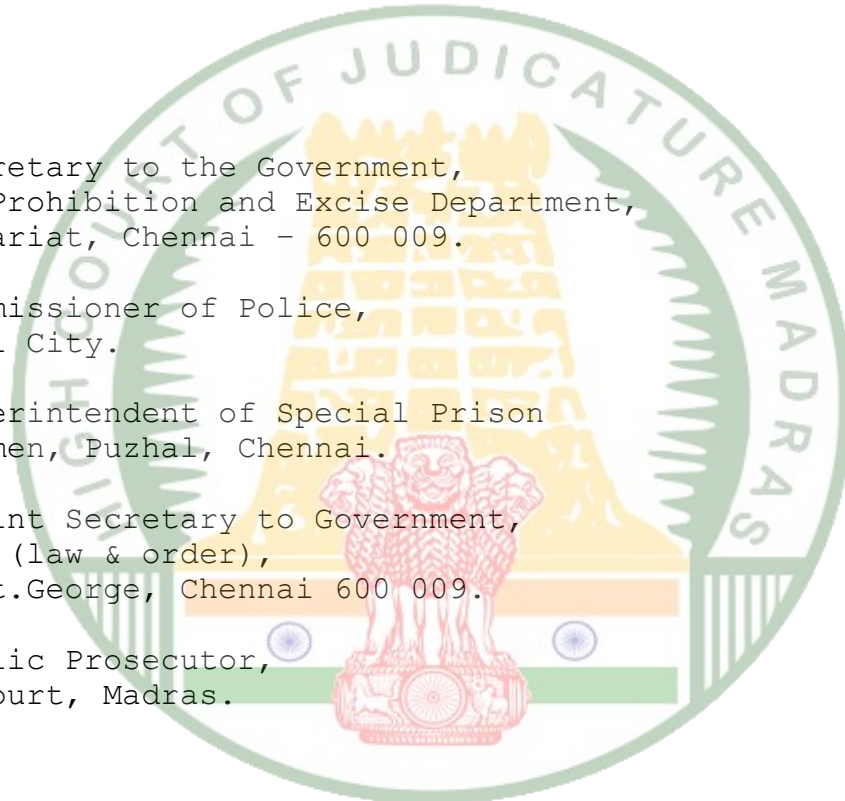
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SUB-ASSISTANT REGISTRAR

gm

To

- 1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
- 2.The Commissioner of Police,
Chennai City.
- 3.The Superintendent of Special Prison
for Women, Puzhal, Chennai.
4. The Joint Secretary to Government,
Public (law & order),
Fort St.George, Chennai 600 009.
- 5.The Public Prosecutor,
High Court, Madras.



सत्यमेव जयते

H.C.P.No.1306 of 2015

CO-VP
JD 26/11/2015

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