

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2015

CORAM :

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

H.C.P.No.1314 of 2015

P.Sannasi

... Petitioner

Vs

The State represented by its

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

2. The District Magistrate and District Collector,
Salem District,
Salem.

... Respondents

Prayer:- This Habeas Corpus Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus to call for the records pertaining to the order of detention dated 02.02.2015 passed by the second respondent in C.M.P.No.5/Goonda/C2/2015 and quash the same and produce the detenu Venkatachalam, aged about 29 years S/o.Sannasi before this Court and set him at liberty, the detenu now confined in Central Prison, Salem.

For Petitioner : Mr.S.Manoharan

For Respondents : Mr.M.Maharaja,

Additional Public Prosecutor

O R D E R

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

Petitioner is the father of the detenu, who has been branded as a "Goonda" under the Tamil Nadu Act 14 of 1982 and detained under orders of the second respondent passed in C.M.P.No.5/Goonda/C2/2015 dated 02.02.2015.

2. The detenu came to adverse notice in the following cases:-

Sr.No.	Police Station and Crime No.	Sections of Law
1.	Yethapur Police Station, Crime No.540/2014	379 IPC
2.	Yethapur Police Station, Crime No.625/2014	379 IPC

The alleged ground case has been registered against the detenu by the Sub-Inspector of Police, Yethapur Police Station, in Crime No.628 of 2014 for offences under sections 392 r/w. 397 and 506(ii) IPC. Aggrieved by the order of detention, the present writ petition has been filed.

3. Amidst several grounds raised, learned counsel for petitioner submits that the detenu was in remand in the ground case [Cr.No.628/2014] registered by Yethapur Police Station and the bail application filed by the detenu in C.M.P.No.198/2015 before the learned Principal Sessions Judge, Salem was dismissed. Another bail application filed by the detenu in Crl.O.P.No.2133/2015 before this Court is pending as on the date of passing of the detention order. But the detaining authority in order to arrive at the subjective satisfaction that the detenu would be released on bail by this Court, relied upon the similar case registered by Hasthampatty Police Station in Cr.No.555/2014 for the offence u/s. 392 r/w. 397 and 506(ii) IPC, wherein bail was granted by the learned Principal Sessions Judge, Salem in C.M.P.No.3972/2014. Hence, the impugned order suffers from non-application of mind.

4. We have heard learned Additional Public Prosecutor on the above submissions and also perused the records.

5. We find that the order of detention does suffer from non application of mind and for the reasons put forth by the learned counsel for the petitioner, the order under challenge would have to fall.

Accordingly, the impugned detention order passed by the second respondent, detaining the detenu, namely, Venkatachalam, S/o.Sannasi, made in C.M.P.No.5/Goonda/C2/2015 dated 02.02.2015, is quashed and the Habeas Corpus Petition is allowed. The above named detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

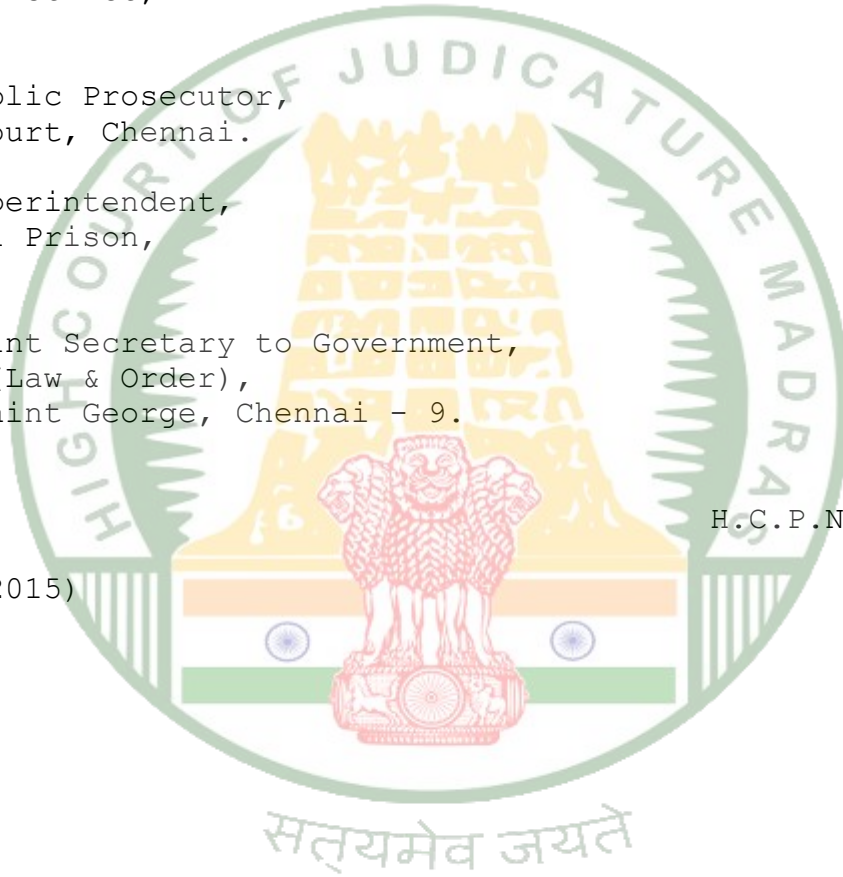
cse

To

1. The Secretary to Government (Home)
Prohibition and Excise Department,
Government of Tamil Nadu,
Fort St. George, Chennai-600 009.
2. The District Magistrate and District Collector,
Salem District,
Salem.
3. The Public Prosecutor,
High Court, Chennai.
4. The Superintendent,
Central Prison,
Salem.
5. The Joint Secretary to Government,
Public(Law & Order),
Fort Saint George, Chennai - 9.

KSJ(CO)
CA(18/09/2015)

H.C.P.No.1314 of 2015



WEB COPY