

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2015

C O R A M

THE HONOURABLE DR.JUSTICE S.TAMILVANAN
AND

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Habeas Corpus Petition No.1346 of 2015

M.Ramakrishnan

... 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

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Habeas Corpus calling for the records pertaining to the order of detention dated 14.05.2015 passed by second respondent in C.M.P.No.21/Goonda/C2/2015 and quash the same and produce the detenu, Parthiban, aged about 25 years, S/o.Ramakrishnan, before this Court and set him at liberty, the detenu now confined at Central Prison, Salem.

For Petitioner : Mr.S.Manoharan

For Respondents : Mr.M.Maharaja,
Additional Public Prosecutor

O R D E R

(The 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 second respondent passed in C.M.P.No.21/Goonda/C2/2015 dated 14.05.2015.

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

Sl.No.	Police Station and Crime No.	Sections of Law
1.	Kancheepuram District, Kanchi Taluk Police Station, Crime No.892 of 2014	394 @ 392, 395, 397 IPC

The ground case has been registered against the detenu in Crime No.148 of 2015 on the file of the Dheevattippatty Police Station for offences u/s.395 r/w 397 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 also aware that Thiru.Parthiban is in remand in Dheevattippatty Police Station Crime No.173/2015, for offences under section 392 r/w.397, 427, 506(ii) IPC has not filed any bail petition so far. In similar case registered at Salem Town Crime Police Station Crime No.246/2012, u/s.341, 392 r/w. 397, 427, 506(ii) IPC, bail was granted to the accused Thiru.Duraisamy by the Honourable High Court, Madras in CrI.O.P.No.25955/2012 on 19.11.2012 and hence, there is a real possibility of his (Thiru.Parthiban) coming out on bail filing a bail application for the above case before the appropriate court. If he comes out on bail, he will indulge in such further activities, which will be prejudicial to the maintenance of public order. ..."

4. Learned counsel for petitioner submits that the detaining authority informed that the detenu has been remanded to custody in Crime No.173 of 2015 on the file of Dheevattippatty Police Station for offences u/s.392 r/w 397, 427, 506(ii) IPC. The same is neither the ground case nor the adverse case informed against the detenu. Therefore, learned counsel submitted that extraneous consideration weighed with the detaining authority in passing the impugned

detention order. The next contention of learned counsel is that despite the admitted position that the detenu has not filed any bail application, the detaining authority has informed a real possibility of his coming out on bail by filing a bail application. In support of such inference, there absolutely is no material. It has not been shown that either the detenu/his relatives/friends were making arrangements to move a bail application on his behalf. It is, therefore, submitted that the detaining authority has arrived at subjective satisfaction without entering upon objective consideration.

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, this Court would allow the present petition.

This Habeas Corpus Petition is allowed. The impugned order passed by second respondent, against the detenu Parthiban, aged 25 years, S/o.Ramakrishnan, made in C.M.P.No.21/Goonda/C2/2015 dated 14.05.2015, is quashed. 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(CS II)

//True Copy//

Sub Assistant Registrar

gm

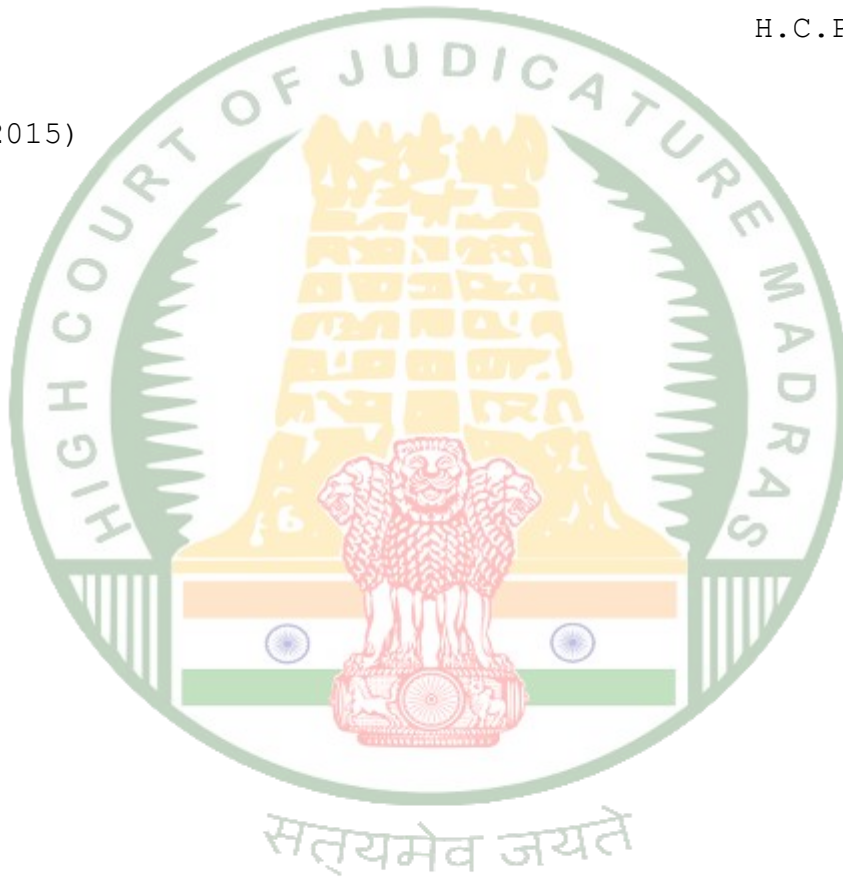
To

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 Superintendent of Central Prison,
Salem.
4. The Joint Secretary to Government,
Public(Law & Order),
Fort Saint George, Chennai - 9.
5. The Public Prosecutor,
High Court, Chennai.

H.C.P.No.1346 of 2015

PPA(CO)
CA(30.09.2015)



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