

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.09.2015

C O R A M

THE HONOURABLE MR.JUSTICE B.RAJENDRAN
AND
THE HONOURABLE MR.JUSTICE C.T.SELVAM

Habeas Corpus Petition No.1413 of 2015

Vijayalakshmi
W/o.Senthil

... Petitioner/wife of the Detenue

-vs-

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai - 9.

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

... Respondents

Writ petition under Article 226 of the Constitution of India filed praying for issuance of a writ of Habeas Corpus to call for the records relating to the detention order passed by second respondent against the detenu Senthil S/o. Ayyaru, in C3/D.O./21/2015 dated 19.05.2015, quash the same and consequently, to direct the respondents to produce the detenu and set him at liberty.

For Petitioner : Mr.K.Gandhi Kumar

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

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O R D E R

(The order of the Court was made by C.T.SELVAM, J.)

Petitioner is the wife of the detenu, Senthil S/o. Ayyaru, who has been branded as "Goonda" under Tamil Nadu Act 14 of 1982 and detained under orders of second respondent passed in C3/D.O./21/2015 dated 19.05.2015. Such order is under challenge herein.

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

S1.No.	Police Station and Crime No.	Sections of Law
1	Cuddalore O.T. Police Station, Crime No.441 of 2011	147, 148, 294(b), 324, 302 and 506(ii) IPC r/w 149 IPC
2	Cuddalore O.T. Police Station, Crime No.131 of 2015	147, 148, 341 and 302 IPC

The ground case has been registered against the detenu in Crime No.132 of 2015 on the file of Cuddalore O.T. Police Station, for offences u/s.279, 337, 294(b) and 506(ii) IPC and Section 21[1]E Arms Act.

3. Amidst several grounds raised, learned counsel for petitioner submits that though the detaining authority has considered the position that the bail application of the detenu in the second adverse case stood dismissed, the detaining authority has informed a real possibility of his coming out on bail by filing another 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.

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

5. We find that there absolutely is no material to support the finding of the detaining authority that there is real possibility of the detenu coming out on bail in the second adverse case, by filing another bail application. Therefore, non-application of mind and erroneous subjective satisfaction arrived at by the detaining authority is apparent.

This Habeas Corpus Petition is allowed. The impugned order passed by second respondent against the detenu Senthil S/o. Ayyaru, made in C3/D.O./21/2015 dated 19.05.2015, is quashed. The detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

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-sd/-

ASSISTANT REGISTRAR

/ TRUE COPY /

SUB-ASSISTANT REGISTRAR

gm

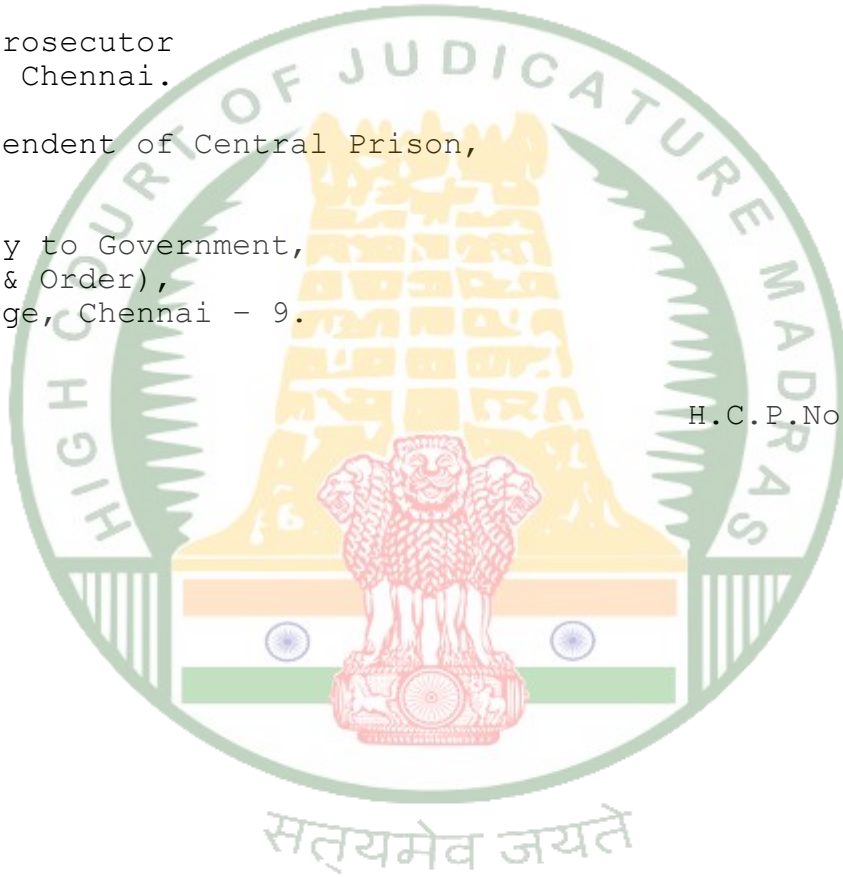
<https://hcservices.ecourts.gov.in/hcservices/>

To

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

H.C.P.No.1413 of 2015

CO-CTK
JD 08/10/2015



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