

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.09.2015

C O R A M

THE HONOURABLE DR.JUSTICE S.TAMILVANAN

AND

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Habeas Corpus Petition No.1442 of 2015

Gowri .. Petitioner

Vs

1. The Secretary to Government (Home),
Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
2. The Commissioner of Police,
Chennai Police,
Egmore, Chennai - 600 008. .. Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Habeas Corpus, calling for the records pertaining to the detention order passed against the detenu by the second respondent in No.400/BCDFGISSSV/2015 dated 15.05.2015 setting aside the same directing the respondents to produce the body of the detenu, viz. Heerababu @ Veerababu, aged 32 years, son of Yadhagiri, now detained at Central Prison, Puzhal, Chennai.

For Petitioner : Mr.V.Ganesh

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 wife of the detenu, who has been branded as a "Immoral Traffic Offender" under the provisions of Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum-grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982) and detained under order of the second respondent passed in No.400/2015 dated 15.05.2015.

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

Sl.No.	Police Station and Crime No.	Sections of Law
1.	Anti Vice Squad Crime No.67 of 2012	3(2) (a), 4(1) 5(1) (a) of Immoral Traffic Prevention Act 1956
2.	Anti Vice Squad Crime No.162 of 2012	4(1) 5(1) (a) 7(1) of Immoral Traffic Prevention Act 1956

The alleged ground case has been registered against the detenu by the Anti Vice Squad in Crime No.56 of 2015 for offence under Sections 3(2) (a), 4(1), 5(1) (a) 6(1), 7(1) of ITP Act. Aggrieved by the order of detention, the present petition has been filed.

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 ground case in C.M.P.No.1843/2015 before the learned 4th Metropolitan Magistrate, Saidapet, Chennai was pending as on the date of passing the detention order, he has gone on to inform that there was a likelihood of the detenu being released on bail since in a similar case, bail was granted by the learned 4th Metropolitan Magistrate, Saidapet, Chennai in Crl.MP.No.209/2015 in respect of Crime No.133 of 2014 on the file of the Anti Vice Squad. Learned counsel submits that the order of the detaining authority reflects non-application of mind since the bail application filed by the detenu in the ground case before the learned 4th Metropolitan Magistrate, Saidapet, Chennai in C.M.P.No.1843/2015 has already been dismissed on 06.05.2015.

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

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.

6. Accordingly, the impugned detention order passed by the second respondent, detaining the detenu, namely, Heerababu @ Veerababu, S/o.Yadhagiri, aged 32 years, made in No.400/2015 dated 15.05.2015, 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.

cse

Sd/-
Assistant Registrar(Records)

/True Copy/

Sub-Assistant Registrar

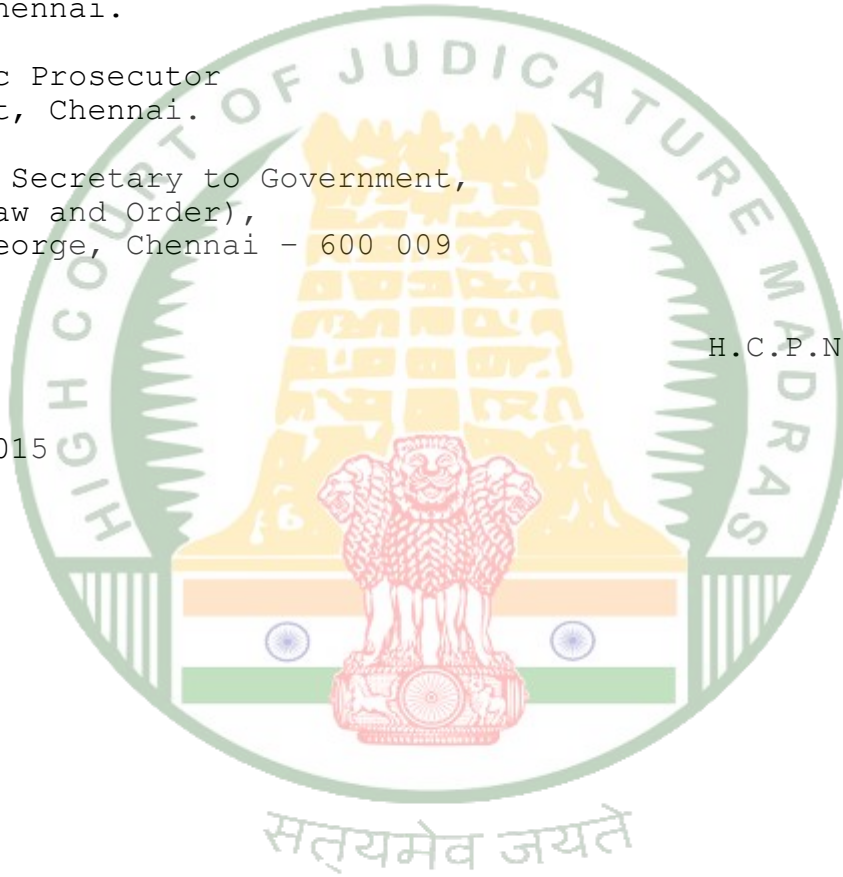
To

1. The Secretary to Government (Home),
Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
2. The Commissioner of Police,
Chennai Police,
Egmore, Chennai - 600 008.
3. The Superintendent,
Central Prison,
Puzhal, Chennai.
4. The Public Prosecutor
High Court, Chennai.
5. The Joint Secretary to Government,
Public (Law and Order),
Fort St.George, Chennai - 600 009

H.C.P.No.1442 of 2015

CA(CO)

Sd : 07/10/2015



WEB COPY