

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 31.08.2015

CORAM:

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

H.C.P.No.1540 of 2015

Devi

.. Petitioner

Vs

1.The Commissioner of Police,
Salem City, Salem.

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

.. Respondents

Prayer:- This Habeas Corpus Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus calling for the records of the first respondent herein concerned in C.M.P.No.43/Goonda/Salem City/2015 dated 12.05.2015 setting the order of detention passed against the petitioner husband Silambarasan, s/o.Soori @ Sooriyamoorthy, quashing the same and setting him at liberty now detained in Central Prison, Salem.

For Petitioner : M/s.L.Srilekha

For Respondents : Mr.M.Maharaja, APP

सत्यमेव जयते
O R D E R

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

Petitioner is the wife of the detenu, who has been branded as a "Goonda" under the Tamil Nadu Act 14 of 1982 and detained under orders of the first respondent passed in C.M.P.No.43/Goonda/Salem City/2015 dated 12.05.2015.

2. The alleged ground case has been registered against the detenu by the Inspector of Police, Kitchipalayam Police Station, in Crime No.45 of 2015 for offences under sections 147, 148, 341, 427, 452, 302, 307 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.45/2015] registered by Kitchipalayam Police Station and the bail application filed by the detenu in C.M.P.No.1020/2015 before the learned Principal Sessions Judge, Salem was dismissed. Another bail application filed by the detenu in CrI.O.P.No.9681/2015 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 wherein bail was granted by the learned Vacation Sessions Judge, Salem in C.M.P.No.1330/2015. 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 first respondent, detaining the detenu, namely, Silambarasan, S/o.Soori @ Sooriyamoorthy, made in C.M.P.No.43/Goonda/Salem City/2015 dated 12.05.2015, 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.

-s/d-

Assistant Registrar

True Copy

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Sub-Assistant Registrar

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To

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1.The Commissioner of Police,
Salem City, Salem.

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

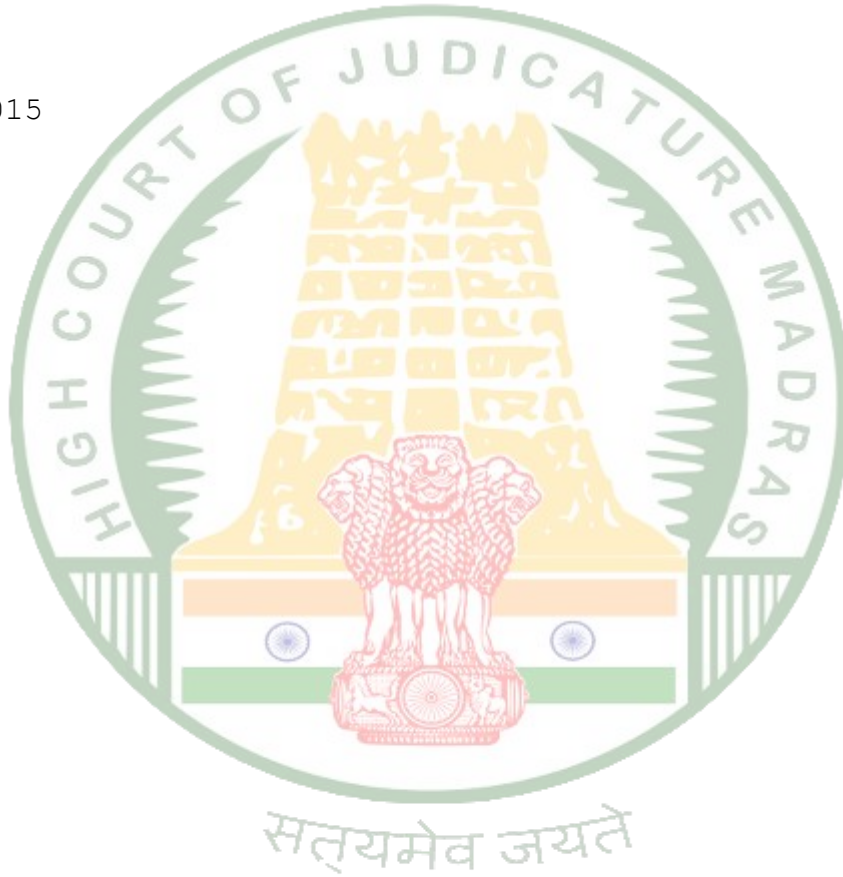
3.The Superintendent of Central Prison,
Salem.

4.The Joint Secretary to Government
Public Law and Order
Fort St.George Chennai-9

5.The Public Prosecutor,
High Court, Chennai.

H.C.P.No.1540 of 2015

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