

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2015

CORAM

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

H.C.P.No.1719 of 2015

Daisy
W/o.Manikandan ... Petitioner

vs.

- 1.The State of Tamilnadu
represented by the
Secretary to Government,
Prohibition and Excise Department,
Fort St.George, Chennai - 9.
- 2.The Commissioner of Police,
Salem City, Salem District. ... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus calling for the records relating to the detention order passed by the second respondent in C.M.P.No.31/Goonda/ Salem City/2015 dated 21.04.2015, quash the same and direct the respondents to release the detenu viz., Manikandan of Kuzhikodu Village, Thackalay Taluk in Kanyakumari District, now detained at Central Prison, Salem and set him at liberty.

For Petitioner : Mr.M.Michael Bharathi

For Respondents: Mr.M.Maharaja
Additional Public Prosecutor

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O R D E R

(Order of the Court was made by S.TAMILVANAN, J.)

Petitioner is the wife of the detenu, Manikandan S/o.Subbiah, who has been branded as "Goonda" under the Tamil Nadu Act 14 of 1982 and detained under order of the second respondent passed in C.M.P.No.31/Goonda/ Salem City/2015 dated 21.04.2015.

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

Sl.No.	Police Station and Crime No.	Sections of Law
1	Pallapatty Police Station, Crime No.129 of 2015	379 IPC
2	Kondalampatty Police Station, Crime No.106 of 2015	379 IPC
3	Ammamet Police Station, Crime No.156 of 2015	379 IPC

The alleged ground case has been registered against the detenu on 29.03.2015 by the Sub-Inspector of Police, Ammapet Police Station, in Crime No.157 of 2015 for offence u/s.392 r/w 397, 506(ii) IPC. Aggrieved by the order of detention, the present writ petition has been filed.

3. Though many grounds have been raised in the petition, learned counsel for petitioner, confines his argument only in respect of non-application of mind on the part of the detaining authority in passing the order of detention. Learned counsel submitted that the detaining authority has been of the view that there is real possibility of the detenu being released on bail since in a similar case bail has been granted. In support of such reasoning, he has relied on an order of bail granted by learned Principal Sessions Judge, Salem, in C.M.P.No.3972 of 2014. In such case the accused were granted bail only after 38 days of their arrest, whereas in the ground case, on the date of passing the detention order, the detenu had been in custody only for 23 days. Therefore, the case treated as similar by the detaining authority merely is not so. Hence, the order of detention suffers from non-application of mind.

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.

Accordingly, the Habeas Corpus Petition is allowed and the order of detention passed against the detenu viz., Manikandan S/o.Subbiah, by the second respondent in C.M.P.No.31/Goonda/ Salem City/2015 dated 21.04.2015, is quashed. The detenu is directed to be set at liberty, forthwith, unless his presence is required in connection with any other case.

Sd/-
Asst.Registrar (CS IV)

/true copy/

To

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

2.The Commissioner of Police,
Salem City, Salem District.

3.The Public Prosecutor,
High Court, Madras.

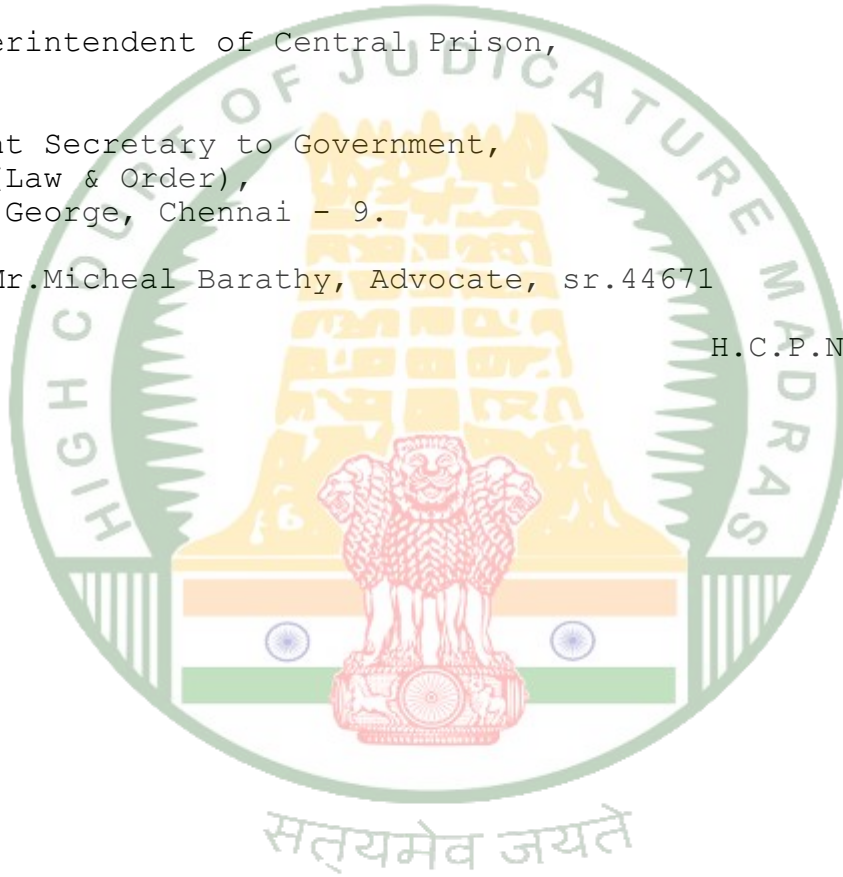
4.The Superintendent of Central Prison,
Salem.

5.The Joint Secretary to Government,
Public (Law & Order),
Fort St.George, Chennai - 9.

+1 cc to Mr.Micheal Barathy, Advocate, sr.44671

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