

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.10.2015

C O R A M

THE HONOURABLE MR.JUSTICE C.T.SELVAM

AND

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

Habeas Corpus Petition No.1943 of 2015

Selvam
S/o.Subramani

... Petitioner

-vs-

1. The State of Tamil Nadu,
rep. by its Secretary,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 600 009.

2. The Commissioner of Police/
Detaining Authority,
Chennai Police,
Egmore, Chennai.

... Respondents

Writ petition under Article 226 of the Constitution of India filed praying for issuance of a writ of Habeas Corpus calling for the records of the second respondent in No.381/2015 dated 09.05.2015 and quash the same thereby direct the petitioner/detenu Selvam, son of Subramani, lodged in Central Prison-II, Puzhal, Chennai to be produced before this Court and to set him at liberty.

For Petitioner : Mr.V.Jeeva Giridharan

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

O R D E R

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

Petitioner/detenu Selvam, son of Subramani, has been branded as "Goonda" under the Tamil Nadu Act 14 of 1982 and detained under orders of second respondent passed in No.381/2015 dated 09.05.2015. Such order is under challenge herein.

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

Sl.No.	Police Station and Crime No.	Sections of Law
1	E-1 Mylapore Police Station, Crime No.2251 of 2014	420 IPC
2	E-1 Mylapore Police Station, Crime No.961 of 2015	420 IPC
3	E-1 Mylapore Police Station, Crime No.1030 of 2015	420 IPC
4	E-5 Foreshore Estate Police Station, Crime No.114 of 2014	420 IPC

The ground case has been registered against the detenu in Crime No.1011 of 2015 on the file of E-5 Foreshore Estate Police Station for offences u/s.341, 392, 397, 336 and 506(ii) IPC.

3. Amidst several grounds raised, learned counsel for petitioner submits that the detaining authority has informed the possibility of the detenu coming out on bail in the ground case, since in the similar case registered at E-1 Mylapore Police Station Crime No.416/2014 for the offences under Section 420 IPC bail stood granted. The non application of mind on the part of the detaining authority is apparent since in the case cited as similar only offence under Section 420 IPC was alleged whereas in the ground case offences under Sections 341, 392, 397, 336 and 506(ii) IPC were alleged. Hence, the subjective satisfaction arrived at by the detaining authority is without objective consideration.

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

5. Finding that non-application of mind on the part of the detaining authority is apparent and for the reasons put forth by learned counsel for petitioner, the order under challenge would have to fall.

This Habeas Corpus Petition is allowed. The impugned order passed by second respondent against the detenu Selvam, son of Subramani, made in No.381/2015 dated 09.05.2015, is quashed. The detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.
Vga

Sd/-
Assistant Registrar (C.C.C.)

/True Copy/

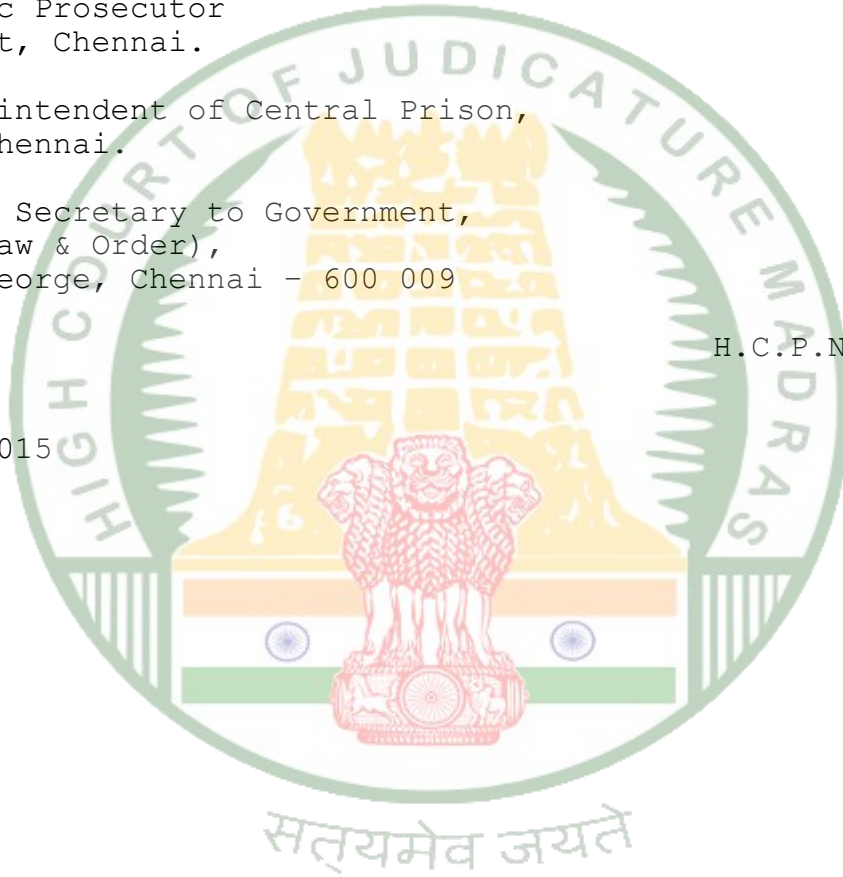
Sub-Assistant Registrar

To

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

H.C.P.No.1943 of 2015

PVR(CO)
sd : 17/11/2015



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