

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2016

CORAM:

THE HONOURABLE MR. JUSTICE M.JAICHANDREN
AND
THE HONOURABLE MR. JUSTICE S.NAGAMUTHU

H.C.P.No.2903 of 2015

Dhanalakshmi

... Petitioner

-Vs-

1.The District Magistrate and
District Collector
Tiruppur District
Tiruppur.

2.The Secretary
Prohibition and Excise Department (Home)
Government of Tamil Nadu
Fort St.George
Chennai 9.

... Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India to issue a writ of direction, in the nature of Writ of Habeas Corpus, calling for the records of the first respondent in CMP No.18/Goonda/2015 dated 08.09.2015 and to set aside the same and direct the respondent to produce the detenu Bala @ Balamurugan S/o Chinnathambi, aged about 20 years, now confined in Borstal School and District Jail, Puduckottai, before this Court and set him at liberty.

For Petitioner : Mr.A.Mohamed Ismail

For Respondents : Mr.A.N. Thambidurai

Additional Public Prosecutor

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O R D E R

(Order of the Court was made by M.JAICHANDREN, J.)

The Petitioner, who is the mother of the detenu, viz., Bala @ Balamurugan, Son of Chinnathambi, aged 20 years, has filed this petition challenging the order of detention passed by the 1st respondent in Cr.M.P.No.18/Goonda/2015 dated 08.09.2015, branding her son as a "Goonda" under Section 3[1] of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber

2. Even though the learned counsel for the petitioner raised many grounds in assailing the impugned order of detention in the petition, he focused his argument on the ground that in Cr.Nos.365/2014, 368/2014, 153/2015 and 240/2015, the bail applications filed by the detenu were dismissed by the learned Magistrates concerned and thereafter, no fresh application was filed by him seeking bail. When that be so, the satisfaction arrived at by the detaining authority, that there is likelihood of the detenu coming out on bail is absolutely baseless.

3. We have considered the above submissions.

4. As rightly pointed out by the learned counsel for the petitioner, from paragraph 5 of the detention order, it is crystal clear that the detenu had not filed any fresh application seeking bail, after dismissal of the earlier applications. When that be so, it is not explained to the Court as to how the detaining authority has come to the conclusion that there was real possibility of the detenu coming out on bail. This shows the predetermined mind of the detaining authority. In such view of the matter, the detention order is liable to be quashed.

5. Accordingly, the habeas corpus petition is allowed and the detention order dated 08.09.2015, passed by the 1st respondent is quashed. The detenu is directed to be set at liberty, forthwith, unless his presence is required in connection with any other case.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

gms
To

1.The District Magistrate and
District Collector, Tiruppur District,Tiruppur.

2.The Secretary, Prohibition and Excise Department (Home)
Government of Tamil Nadu, Fort St.George,Chennai 9.

3.The Public Prosecutor, Madras High Court, Chennai.

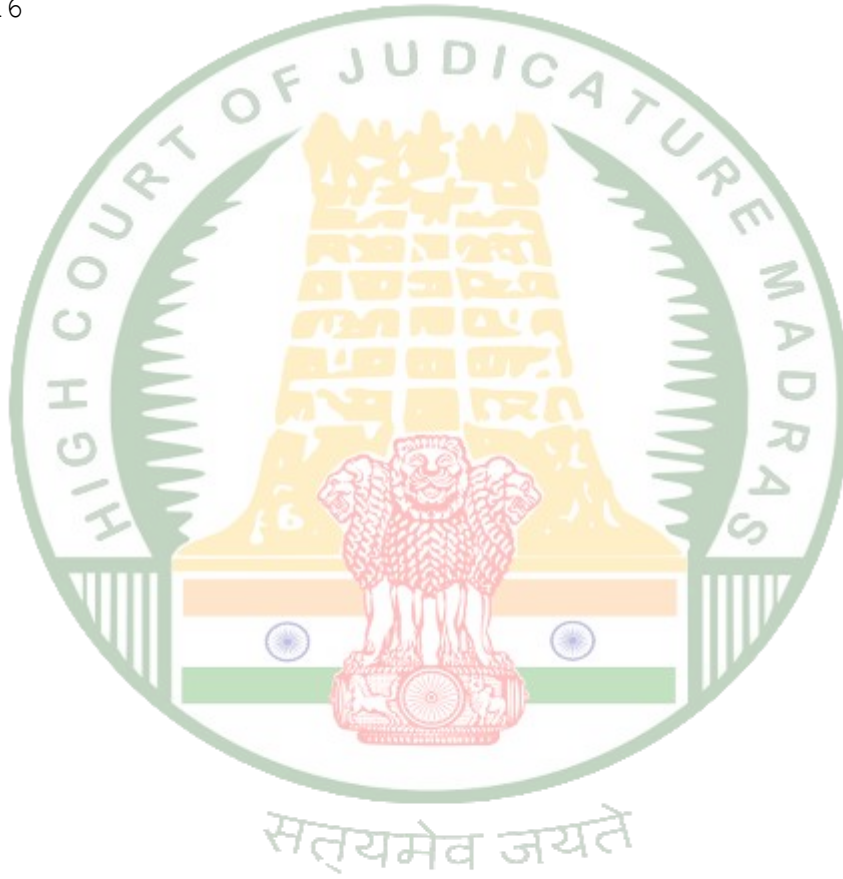
3.The Superintendent, Borstal School and District Jail,
Pudukottai.

4. The Joint Secretary to Government Public
(Law & order), Fort St. George, Chennai. 600 009.

+ 1 cc to Mr.A. Mohamed Ismail, Advocate Sr.23310

H.C.P.No.2903 of 2015

SK(CO)
Eu 07.06.16



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