

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.06.2016

CORAM

THE HONOURABLE MR. JUSTICE S.NAGAMUTHU

and

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

H.C.P.No.35 of 2016

S.Madhammal ...Petitioner/Mother of
the detenu

1.The State of Tamil Nadu,
Rep. By its Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 9.

2.The Commissioner of Police,
Salem City.

3.The Superintendent,
Central Prison, Salem - 7. ...Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus to call for the records leading to the detention of petitioner's son Logeswaran, son of Subramani, aged 29 years presently detained in Central Prison, Salem under Act 14/1982 as a "GOONDA" vide the detention order dated 09.12.2015 in C.M.P.No.90/Goonda/Salem City/2015 on the file of the 2nd respondent herein directing to produce the body or the person of the detenu before this Court and thereafter set him at liberty from the Central Prison, Salem by setting aside the above order.

For Petitioner : Mr.B.Vasudevan

For Respondents: Mr.A.N.Thambidurai,
Additional Public Prosecutor

O R D E R

[Order of the Court was made by V.BHARATHIDASAN,J.]

Challenge is made to the order of detention passed by the second respondent vide Proceedings in C.M.P.No.90/Goonda/Salem City/2015 dated 09.12.2015, whereby the detenu/son of the

petitioner, by name, Logeswaran, son of Subramani, aged 29 years, was ordered to be detained under the provisions of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982) branding him as a "Goonda".

2. We have heard the learned counsel appearing on behalf of the petitioner and the learned Additional Public Prosecutor appearing for the State and we have also perused the records carefully.

3. Even though several grounds have been raised in assailing the impugned order of detention in the petition, the learned counsel for the petitioner would submit that, in paragraph 5 of the detention order dated 09.12.2015, it has been stated that the petition filed by the detenu seeking bail in Cr.No.455 of 2015 was pending and though it is stated that in similar case in Cr.No.197 of 2014, bail was granted and thus there was likelihood of the detenu coming out on bail immediately in Cr.No.455/2015, the said conclusion is not correct.

4. We have perused the records. It is seen that Cr.No.455 of 2015 involves offences under Sections 294(b), 323, 392, 397 and 506(ii) IPC r/w. Section 3(1) of TNPPDL Act; whereas, the offences involved in Cr.No.197 of 2014 are under Sections 147, 148, 341, 324 IPC r/w 3(1) of TNPPDL Act. Thus, the two cases are dissimilar. When that be so, the subjective satisfaction arrived at by the detaining authority that there is likelihood of the detenu coming out on bail, is based on no materials. 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 09.12.2015, passed by the second 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 (CS III)

//True Copy//

Sub Assistant Registrar

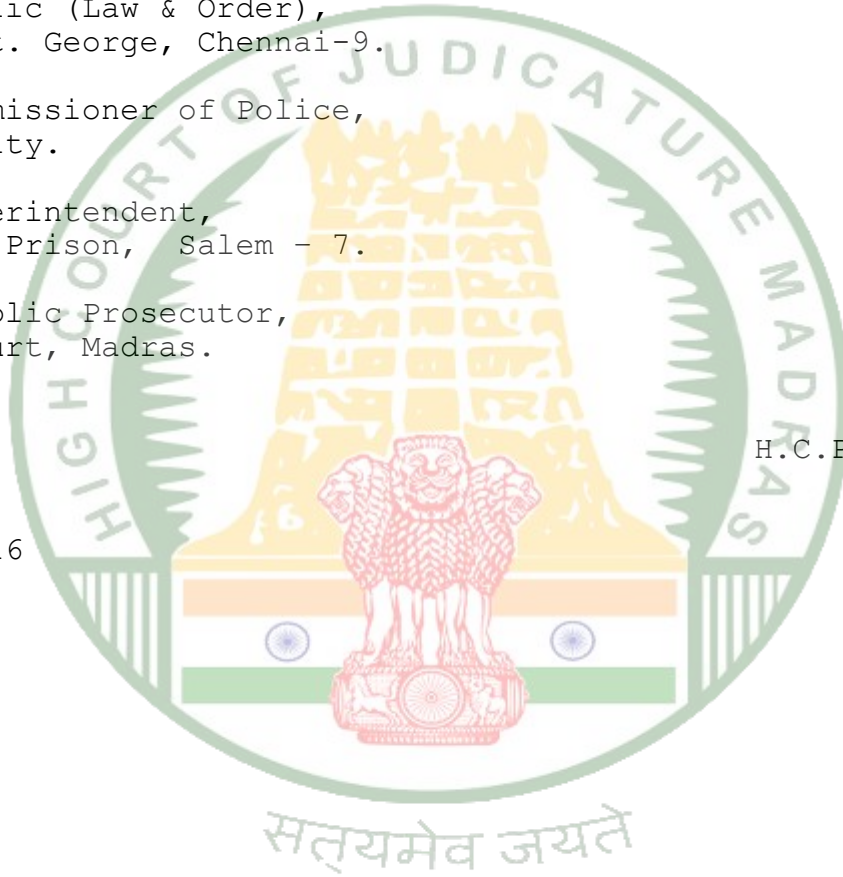
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To

- 1.The Secretary to Government,
The State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 9.
2. The Joint Secretary to Government
Public (Law & Order),
Fort St. George, Chennai-9.
- 3.The Commissioner of Police,
Salem City.
- 4.The Superintendent,
Central Prison, Salem - 7.
- 5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.35/2016

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