

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.5.2016

CORAM

THE HONOURABLE MR.JUSTICE G.CHOCKALINGAM
and
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

H.C.P. No.42 of 2016

Sarala .. Petitioner

Vs.

1.State of Tamilnadu
Rep. By the Secretary, Home,
Prohibition and Excise Department,
Fort St.George, Chennai - 600 009

2.The Commissioner of Police,
The Commissioner Office,
Vepery, Chennai - 600 007.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for a writ of habeas corpus, to call for the records relating to the detenu order in Memo No.1197/BCDFGISSV/2015 dated 23.11.2015 passed by the second respondent under the Tamilnadu Act 14 of 1982 and set aside the same and direct the respondents to produce the petitioner's husband detenu, Ganga @ Gangadaran s/o Sampath aged about 37 years, the detenu, now confined in Central Prison, Puzhal, Chennai before this Court and set him at liberty.

For Petitioner : Mr.D.Gopi Krishnan

For Respondents: Mr.M.Maharaja
Addl. Public Prosecutor

O R D E R

(Order of the Court was made by G.CHOCKALINGAM, J.)

The petitioner is the wife of the detenu. The detenu has been branded as a "Goonda" as contemplated under Tamil Nadu Act 14 of 1982 and detained under order of the second respondent passed in Memo No.1197/BCDFGISSV/2015 dated 23.11.2015.

2. Though many grounds have been raised in the petition, Mr.D.Gopikrishnan, learned counsel appearing for the 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.

3. According to the learned counsel for the petitioner in paragraph no.4 of the grounds of detention, the detaining authority has observed that the detenu has moved a bail application for the second adverse case before the Principal Sessions Court, Chennai in CrI.M.P.No.17120 of 2015 and the same is pending. Per contra, page no.58 of the booklet reveals that the detaining authority has furnished the bail application which was numbered as 18571 of 2015 and no docketed order is furnished to show that the bail application is pending .

4.We have heard the learned Additional Public Prosecutor on the above point. He would submit that it is a typographical error and it will not affect the rights of the detenu.

5.On a careful scrutiny of the impugned order, it is seen that the detaining authority has arrived at the subjective satisfaction, taking into account the statement of the sponsoring authority that the relatives of the detenu are taking steps to take the detenu on bail in the ground case in Crime No.2620 of 2015. There is no material available in the booklet to show that the relatives are taking action to file bail application for the detenu in the ground case. Therefore, the subjective satisfaction arrived at by the detaining authority is not supported by any material and it vitiates the order of detention. For the above reasons, the order of detention is liable to be set aside.

6.Accordingly, the impugned detention order passed by the second respondent, detaining the detenu, namely, Ganga @ Gangadaran made in 1197/BCDFGISSV/2015 dated 23.11.2015 is quashed and the Habeas Corpus Petition is allowed. The above named detenu, who is detained in the Central Prison, Puzhal, Chennai is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

Sd/-

Assistant Registrar(J)

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Sub Assistant Registrar

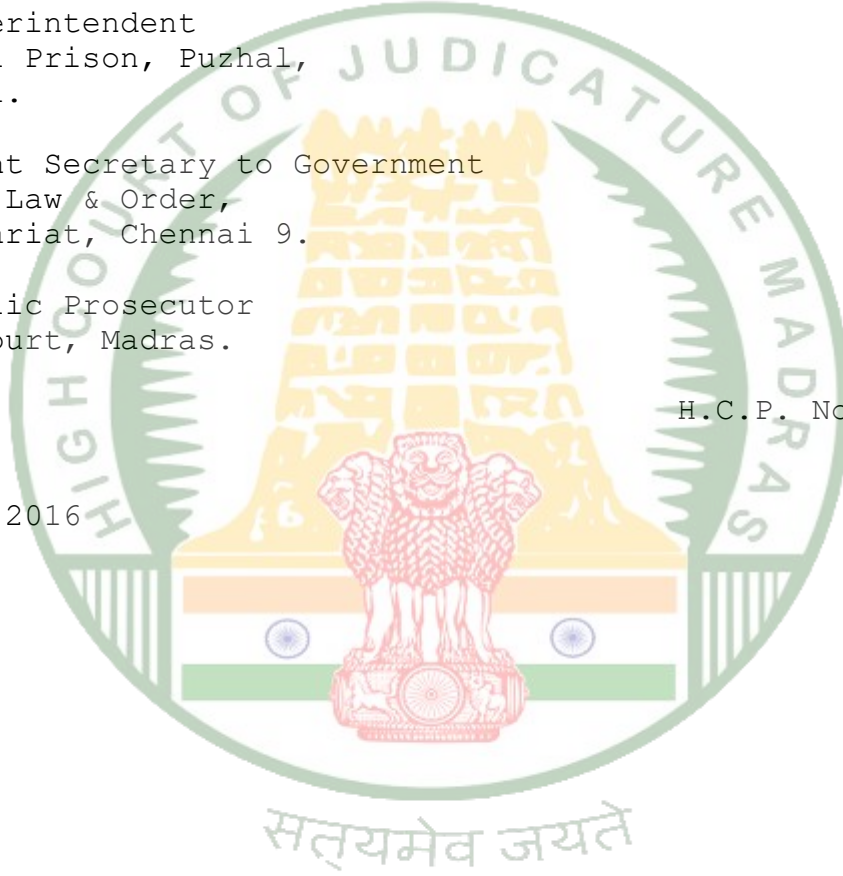
ssd/kua

To

- 1.The Commissioner of Police,
Chennai City Police,
Egmore, Chennai - 8.
- 2.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.
- 3.The Superintendent
Central Prison, Puzhal,
Chennai.
- 4.The Joint Secretary to Government
Public Law & Order,
Secretariat, Chennai 9.
- 5.The Public Prosecutor
High Court, Madras.

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