

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.05.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
and

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

Habeas Corpus Petition No.287 of 2017

G.Mahendran,

.. Petitioner

Vs.

1. The State of Tamil Nadu,
Rep by its Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai 600 009.

2. The District Collector and District Magistrate,
Kancheepuram District.
Kancheepuram.

.. 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 dated 31.01.2017 in Memo BCDFGISSSV No.08/2017 against the petitioner's brother Umapathy, S/o. Gopal, male aged about 29 years, who is now confined at Central prison, Puzhal, Chennai and set aside the same and direct the respondents to produce him before this Court and set at liberty.

For Petitioner : Mr.S.Swamidoss Manokaran,
For Respondents : Mr.E.Raja,
Addl. Public Prosecutor

O R D E R

[Order of the Court was made by M.M.SUNDRESH, J.]

The petitioner, who is the brother of the detenu Umapathy, S/o. Gopal, male aged about 29 years, has come forward with this Writ of Habeas Corpus Petition seeking to quash the detention order in Memo BCDFGISSSV No.08/2017 passed by the second respondent, dated 31.01.2017, against his brother branding him as a "Goonda" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders,

Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 [Tamil Nadu Act 14 of 1982].

2.The learned counsel for the petitioner would contend that in as much as, no bail applications have been filed, it cannot be stated by the detaining authority that the detenu would come out on bail. Secondly, it is submitted by the learned counsel that the similar case relied upon is one involving a default order granted, having crossed the statutory period, while filing the charge sheet.

3.We find force in the submissions made in respect of both grounds.

4.Admittedly, the similar case relied upon by the detaining authority is one, involved non-filing of charge sheet within the mandatory period. Therefore, the benefit has been extended to the accused, which could be termed as a decision on merits.

5.In view of the above, the Habeas Corpus Petition is allowed and the detention order dated 31.01.2017, 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

//True Copy//

Sub Assistant Registrar

cla/sts

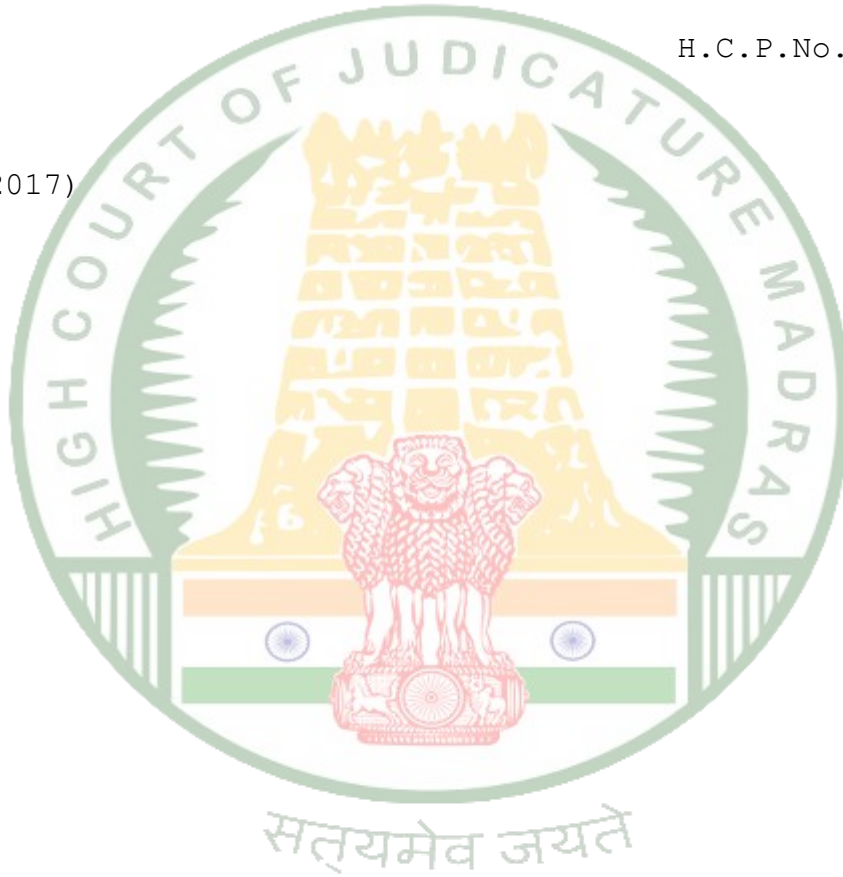
To

1. The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai 600 009.
2. The District Collector and District Magistrate,
Kancheepuram District.
Kancheepuram.

3. The Superintendent,
Central Prison, Puzhal, Chennai.
4. The Joint Secretary to Government,
Public (Law & Order),
Fort St. George, Chennai-9.
5. The Public Prosecutor,
High Court of Madras.

Order in
H.C.P.No.287 of 2017

SK(CO)
VR(21/06/2017)



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