

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.05.2017

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
and
THE HON'BLE MR.JUSTICE R.SUBRAMANIAN

H.C.P.No.86/2017

B.Santhi

... Petitioner

Vs

1. The State rep. by the
rep. by its Secretary to Government
Home, Prohibition and Excise Department,
Fort St.George
Chennai 600 009.

2. The Commissioner of Police,
Salem City, Salem District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS to call for the records leading to the detention of the petitioner's daughter namely Mythili, wife of late Saravanan, aged 30 years under Act 14/1982 vide detention order dated 16.12.2016 on the file of the 2nd respondent made in Proceedings in C.M.P.No.92/Goonda/Salem City/2016, quash the same and consequently, direct the respondents herein to produce the body and person of Mythili, wife of late Saravanan who is lodged at Special Prison for Women, Vellore before this Court and set her at liberty.

For Petitioner

Mr.C.D.Sugumar

For Respondents

: Mr.E.Raja,
Additional Public Prosecutor

ORDER

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

This Habeas Corpus Petition is filed, by the mother of the detenu, namely, Mythili, wife of late Saravanan, aged 30 years, to issue a Writ of Habeas Corpus, to call for the records, in C.M.P.No.92/Goonda/Salem City/2016 dated 16.12.2016, passed by the 2nd Respondent, detaining the detenu, under Section 3(1) of

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 14/1982), the Tamil Nadu Act 14 of 1982, branding him as a "Goonda", in the Special Prison for Women, Vellore, and to quash the same and to direct the Respondents to produce the body of the detainee and set her at liberty forthwith.

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. It is seen from the records that as against the detainee, there were four adverse cases pending apart from the ground case as follows:

- (1) In Azhagapuram Police Station - Cr.No.283 of 2015.
- (2) In Hasthampatty Police Station-Cr.No.418 of 2016
- (3) In Hasthampatty Police Station-Cr.No.420 of 2016
- (4) In Hasthampatty Police Station-Cr.No.441 of 2016

4. Admittedly the detainee was arrested and remanded to custody in respect of all the four cases. Further, the bail application filed on behalf of the detainee in Hasthampatty P.S.Cr.No.479/2016 is pending for hearing before the Court of Judicial Magistrate No.3, Salem in CMP.No.6504/2016. But, without considering the same, the detaining authority has stated that there was imminent possibility of the detainee coming out on bail. It is not known as to how the detaining authority had come to such a conclusion without considering the fact that the detainee was in judicial remand in connection with yet another case. This only shows the non-application of mind on the part of the detaining authority. Therefore, the detention order is liable to be quashed.

5. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 16.12.2016, passed by the second respondent is set aside. The detenu is directed to be released forthwith unless her presence is required in connection with any other case.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

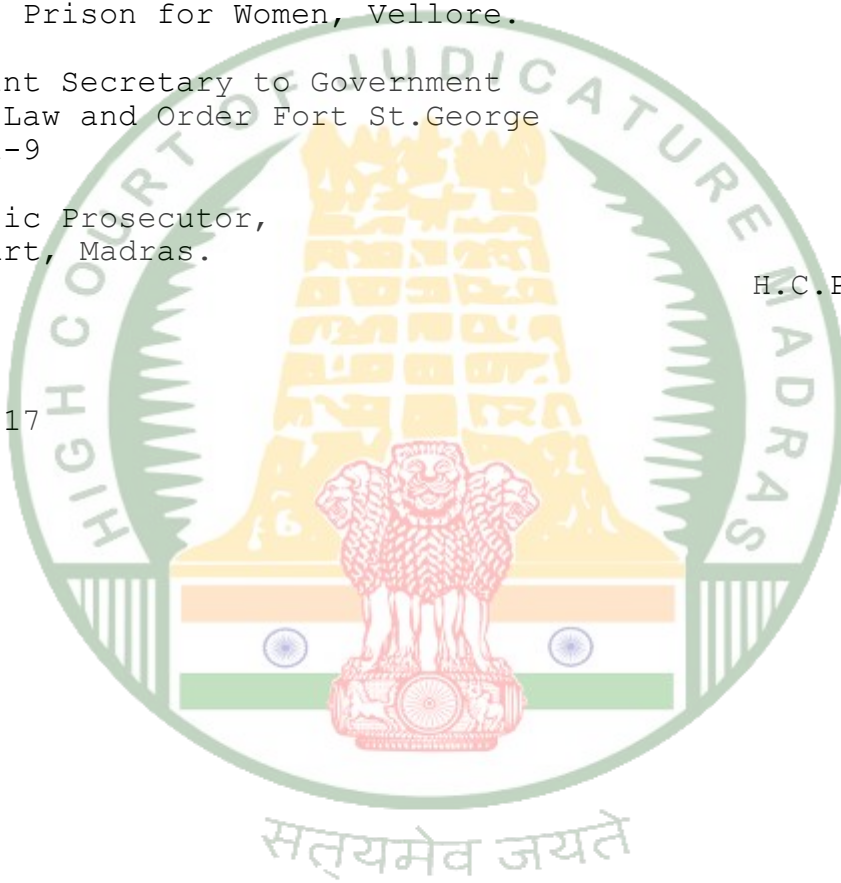
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To

1. The Secretary to Government
Prohibition and Excise Department (Home),
Fort St.George
Chennai 600 009.
2. The Commissioner of Police,
Salem City, Salem District.
- 3.The Superintendent of Police,
Special Prison for Women, Vellore.
4. The Joint Secretary to Government
Public Law and Order Fort St.George
Chennai-9
- 5.The Public Prosecutor,
High Court, Madras.

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