

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 19.04.2017

CORAM

THE HONOURABLE MR. JUSTICE S.NAGAMUTHU
and
THE HONOURABLE DR.JUSTICE ANITA SUMANTH

H.C.P No.2110 of 2016

Mrs. Sumathi

...Petitioner

Vs

1. The Secretary to Government of Tamil Nadu,
Prohibition and Excise (XVI) Department,
Fort St. George, Chennai-600 009
2. The Commissioner of Police,
Greater Chennai,
Chennai City Police,
Vepery,
Chennai - 600 007

...Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India to issue a Writ, order or Direction in the nature of a Writ of Habeas Corpus to call for the records in the detention order vide BCDFGISSSV No.957/2016 by the Commissioner of Police, Greater Chennai, on 23.08.2016 on the file of the second respondent and quash the same and direct the respondents to produce the body of the petitioner Sumathi, aged about 35 years, W/o Anjaneyar and now she is confined in Chennai Special Women's Prison, Puzhal, Chennai before this Court and set her at liberty.

For Petitioner : Mr. Saravanan

For respondents: Mr.V.M.R. Rajentran
Addl. Public Prosecutor

ORDER

(Order of the Court was made by S. NAGAMUTHU, J.,)

The petitioner has come up with this Habeas Corpus Petition, challenging the Detention Order passed by the second respondent

detaining her, branding her as "Goonda" by Order dated 23.08.2016 in BCDFGISSSV No.957/2016.

2. We have heard the learned counsel appearing for 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 in the ground case, the petitioner is involved in the offence under sections 294 (b), 341, 323, 379, 307, 395 and 506(ii) IPC. Of course, the detainee had filed an application, seeking bail in the said case and the same was pending. The Detaining Authority had concluded that there were real possibility of the detainee coming out on bail. In a case registered in Cr.No.45/2016 on the file of Foreshore Estate Police Station, bail was granted by the Principal Sessions Court, Chennai. But the offence involved in the said case are under Sections 341, 294(b), 323, 336, 384, 307 and 506(ii) IPC. Thus, similarity ought not to be drawn between these two cases as major offence is substantially different. Thus, in our considered view, without making proper application of mind relating to these facts, the detaining authority has passed the detention order. Therefore, we are inclined to set aside the same.

4. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 23.08.2016, passed by the second respondent is set aside. The detainee is directed to be released forthwith unless her presence is required in connection with any other case.

Sd/-
Assistant Registrar

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

sr

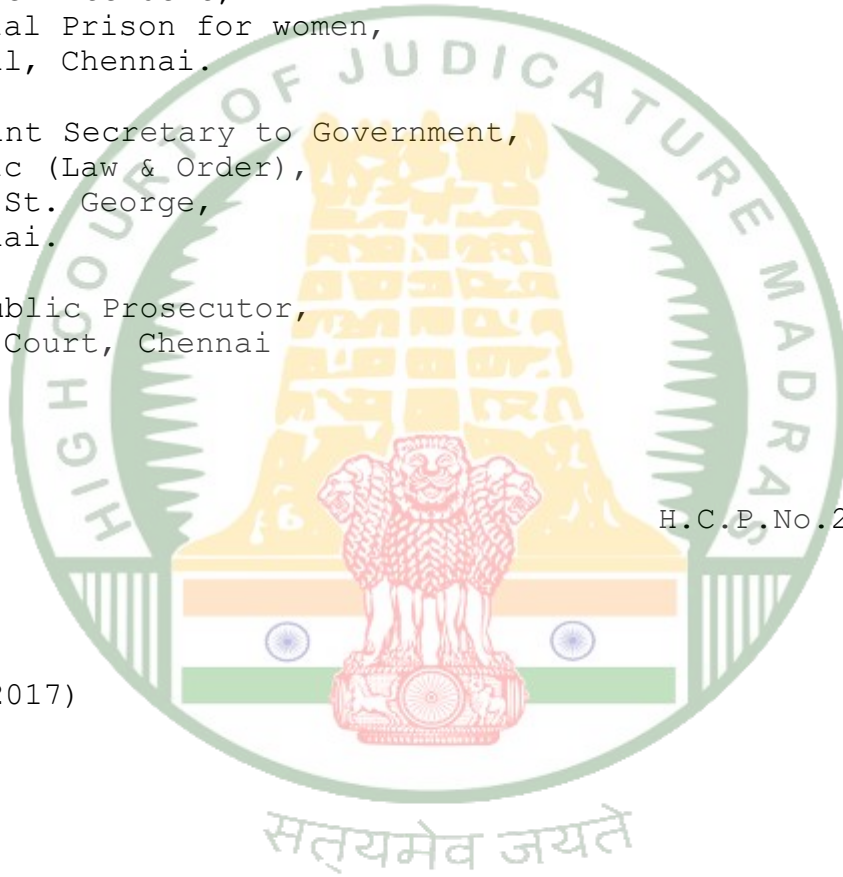
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To

1. The Secretary to Government of Tamil Nadu,
Prohibition and Excise (XVI) Department,
Fort St. George, Chennai-600 009
2. The Commissioner of Police,
Greater Chennai,
Chennai City Police, Vepery, Chennai - 600 007
3. The Superintendent,
Special Prison for women,
Puzhal, Chennai.
4. The Joint Secretary to Government,
Public (Law & Order),
Fort St. George,
Chennai.
5. The Public Prosecutor,
High Court, Chennai

Order in
H.C.P.No.2110 of 2016

VD(CO)
RS(05/05/2017)



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