

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.09.2018

CORAM:

THE HONOURABLE MR.JUSTICE C.T.SELVAM
and
THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

H.C.P.No.1079 of 2018

Bama
W/o.Gobi @ Kora Gobi

... Petitioner

-Vs-

1.The State of Tamil Nadu,
represented by its
Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai - 600009.

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

... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, seeking a direction to produce the body of the detenu by name Gobi @ Kora Gobi S/o.Krishnappa, aged 46 years, presently confined at Central Prison, Salem, before this Court and set him at liberty forthwith, after calling for the records pertaining to the detention order dated 23.03.2018 made in S.C.No.17/2018 passed by the second respondent and quash the same.

For Petitioner : Mr.N.Manokaran

For Respondents : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

ORDER

[Order of the Court was made by **C.T.SELVAM, J**]

Petitioner is the wife of the detenu Gobi @ Kora Gobi S/o.Krishnappa, who has been branded as a "Goonda" under the Tamil Nadu Act 14 of 1982 and detained under order of the second respondent passed in S.C.No.17/2018 dated 23.03.2018.

2. The alleged ground case has been registered against the detenu in Crime No.18 of 2018 on the file of Hudco Police Station for offences under sections 448, 147, 148, 324, 363 @ 302 and 201 IPC. Aggrieved by the order of detention, the present writ petition has been filed.

3. Heard learned counsel for petitioner and learned Additional Public Prosecutor for respondents.

4. On a perusal of the detention order, this Court finds that in one paragraph the detaining authority has informed thus: 'took the accused Tvl.Mani, Siva @ Sivakumar, Karthick and Naveen @ Naveenkumar in police custody on 19-02-108 and enquired.' When there is an error in the date of police custody, opportunity of clear understanding and making effective representation in keeping with Article 22(5) of the Constitution of India, on such understanding is

lost and the detenu is deprived thereof. This would vitiate the order of detention. For the aforesaid reasons, this Court would allow the present petition.

Accordingly, the impugned detention order passed by the second respondent, detaining the detenu, namely, Gobi @ Kora Gobi S/o.Krishnappa, made in S.C.No.17/2018 dated 23.03.2018, is quashed and the Habeas Corpus Petition is allowed. The above named detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

[C.T.S., J] [M.N.K., J]
18.09.2018

Index:yes/no,
Internet:yes
gm

To

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai - 600009.

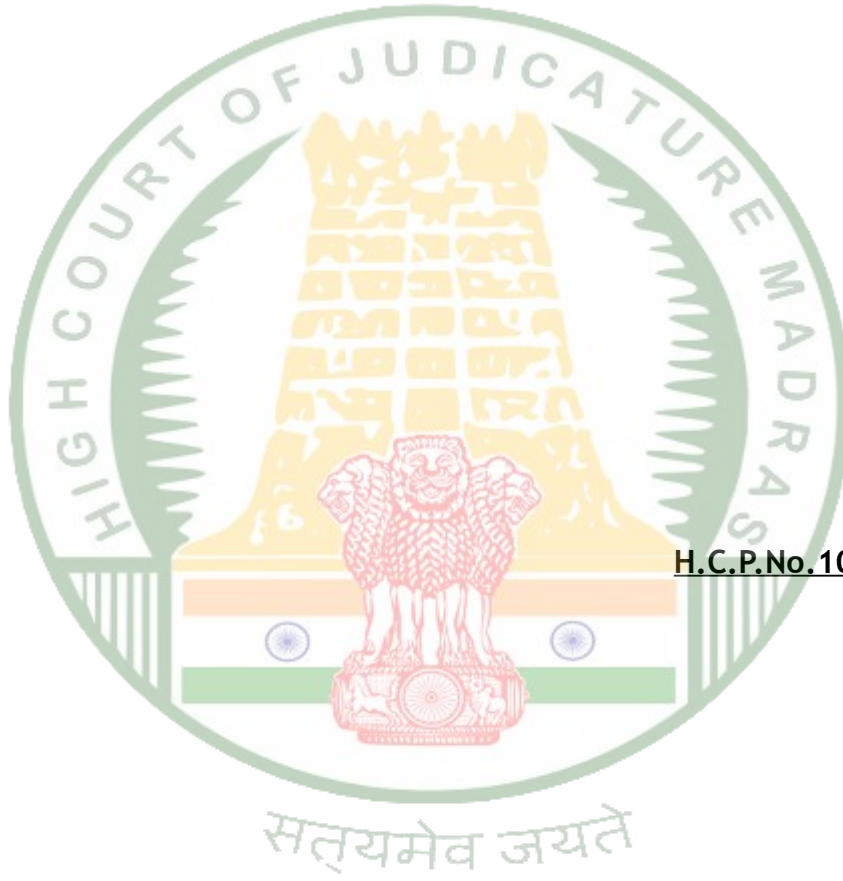
2.The District Collector and District Magistrate,
Krishnagiri,
Krishnagiri District.

3.The Public Prosecutor,
High Court, Madras.

4.The Superintendent of Central Prison,
Salem.

C.T.SELVAM, J
and
M.NIRMAL KUMAR, J

gm



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