

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.10.2018

CORAM:

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

H.C.P.No.1056 of 2018

Kalyani

W/o.Suresh Babu

... Petitioner/Mother of the detenu

-Vs-

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

2.The Commissioner of Police,
The Commissioner Office,
Vepery, Chennai - 600007.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the records relating to the detention order in Memo No.258/BCDFGISSSV/2018 dated 26.04.2018 passed by the second respondent under the Tamil Nadu Act 14 of 1982 and set aside the same and direct the respondents to produce the petitioner's son Rajesh Kumar @ Bomb Rajesh S/o.Suresh Babu aged about 23 years, the detenu, now confined at Central Prison, Puzhal, Chennai, before this Court and set the petitioner's son Rajesh Kumar @ Bomb Rajesh S/o.Suresh Babu, aged about 23 years, the detenu herein at liberty.

For Petitioner : Mr.D.Gopi Krishnan

For Respondents: Mr.M.Mohamed Riyaz

Additional Public Prosecutor

O R D E R

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

Petitioner is the mother of detenu Rajesh Kumar @ Bomb Rajesh S/o.Suresh Babu, who has been branded as a 'Goonda' under the Tamil Nadu Act 14 of 1982 and detained under order of second

respondent passed in No.258/BCDFGISSSV/2018 dated 26.04.2018.

2. The detenu came to adverse notice in the following cases:

Sl.No	Police Station and Crime No.	Offences u/s.
1.	E.5 Foreshore Estate Police Station, Crime No.130/2018	457 and 380 IPC
2.	E.1 Mylapore Police Station, Crime No.168/2018	457 and 380 IPC
3.	E.1 Mylapore Police Station, Crime No.200/2018	379 IPC
4.	F3 Nungambakkam Police Station, Crime No.212/2018	457 and 380 IPC

The alleged ground case has been registered against the detenu in Crime No.142 of 2018 on the file of E.5 Foreshore Estate Police Station for offences under sections 341, 294(b), 336, 392, 397 and 506(ii) IPC. Aggrieved by the order of detention, the present writ petition has been filed.

3. Amidst several grounds raised, learned counsel for petitioner submits that the detaining authority while noticing that the detenu is in remand in both adverse and ground cases and has moved bail application in adverse cases except Crime No.212 of 2018 on the file F3 Nungambakkam Police Station and the same are pending and not moved any bail application in the ground case, he had informed that the relatives of the detenu were taking efforts to move bail applications to take him out on bail in Crime No.212 of 2018 and in the ground case and therefore, there was a real possibility of his coming out on bail and if he comes out on bail, he will indulge in further activities which will be prejudicial to the maintenance of public order. Though the detaining authority has informed of an effort by the relatives to move bail petitions for the release of the detenu, there is no material to support such contention.

4. We have heard learned Additional Public Prosecutor on the above submissions and also perused the records.

5. We find that there absolutely is no material which would disclose the likelihood of the relatives of the detenu moving bail petition on his behalf in respect of the adverse case in Crime No.212 of 2018 and in the ground case. Therefore, the non-application of mind and erroneous subjective satisfaction arrived at by the detaining authority is apparent.

Accordingly, the impugned detention order passed by second respondent, detaining the detenu, namely, Rajesh Kumar @ Bomb

Rajesh S/o.Suresh Babu, made in No.258/BCDFGISSSV/2018 dated 26.04.2018, 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.

-s/d-

Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

gm
To

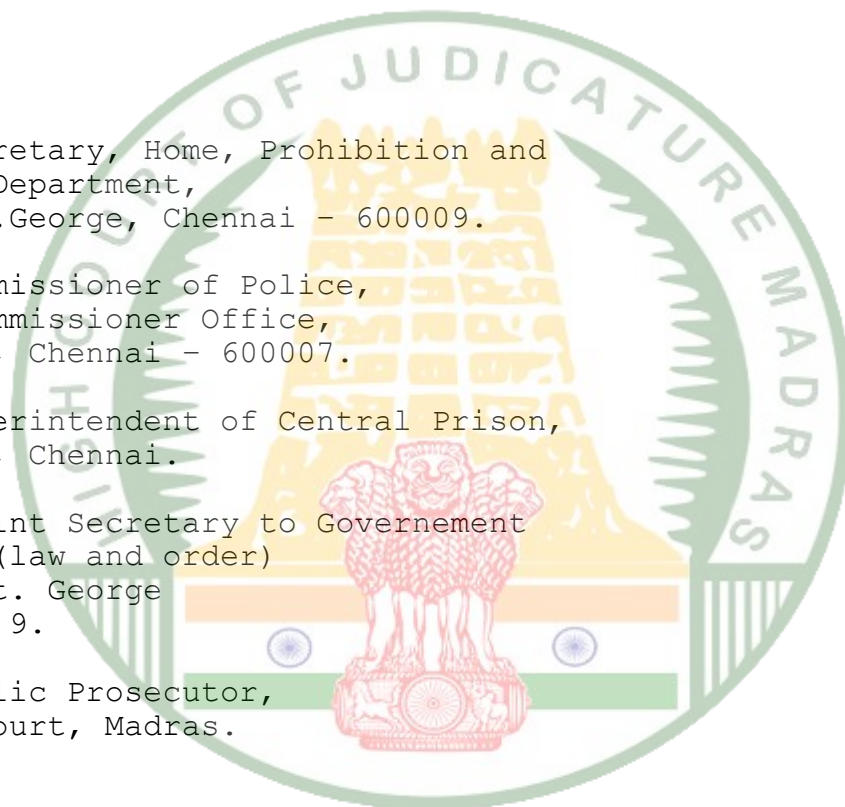
1.The Secretary, Home, Prohibition and
Excise Department,
Fort St.George, Chennai - 600009.

2.The Commissioner of Police,
The Commissioner Office,
Vepery, Chennai - 600007.

3.The Superintendent of Central Prison,
Puzhal, Chennai.

4. The Joint Secretary to Government
Public(law and order)
Fort. St. George
Chennai 9.

5.The Public Prosecutor,
High Court, Madras.



सत्यमेव जयते

H.C.P.No.1056 of 2018

VGII(CO)
SP(09/11/2018)

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