

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.09.2018

CORAM:

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

H.C.P.No.1063 of 2018

Kala
W/o.Arasappan

...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 District Collector and District Magistrate,
Office of the District Collector and
District Magistrate,
Villupuram District. ... 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 No.C2/11069/2018 dated 17.04.2018 passed by the second respondent under Tamil Nadu Act 14 of 1982 and set aside the same and direct the respondents to produce the petitioner's son Arun S/o.Arasappan, aged about 22 years, the dtenu, now confined at Central Prison, Cuddalore, before this Court and set the petitioner's son Arun S/o.Arasappan aged about 22 years, the detenu herein at liberty.

For Petitioner : Mr.U.Yuvaraj
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 the detenu Arun S/o.Arasappan, 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 No.C2/11069/2018 dated 17.04.2018.

2. The detenu came to adverse notice in Crime No.406 of 2016 on the file of Villupuram Town Police Station for offences u/s.302, 307 IPC and 3 of the Explosive Substances Act, 1908 and 25(1)(a), 27(1) of Arms act, 1959 altered into 120(b), 147, 148, 324, 302 r/w 149 IPC and 3, 4(a), 5, 3 r/w 6 of the Explosive Substances Act, 1908 and 25(1)(a), 27(i) of Arms Act, 1959. The alleged ground case has been registered against the detenu in Crime No.249 of 2018 on the file of Kottakuppam Police Station for offences under sections 294(b), 323, 506(ii), 307 IPC and 3 of Tamil Nadu Property (Prevention of Damage and Loss) Act, 1992. 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 Crime No.249 of 2018 on the file of Kottakuppam Police Station and has not filed any bail application, he had informed that the relatives of the detenu were taking efforts to move bail application to take him out on bail 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 petition 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 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 the second respondent, detaining the detenu, namely, Arun S/o.Arasappan, made in No.C2/11069/2018 dated 17.04.2018, 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.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

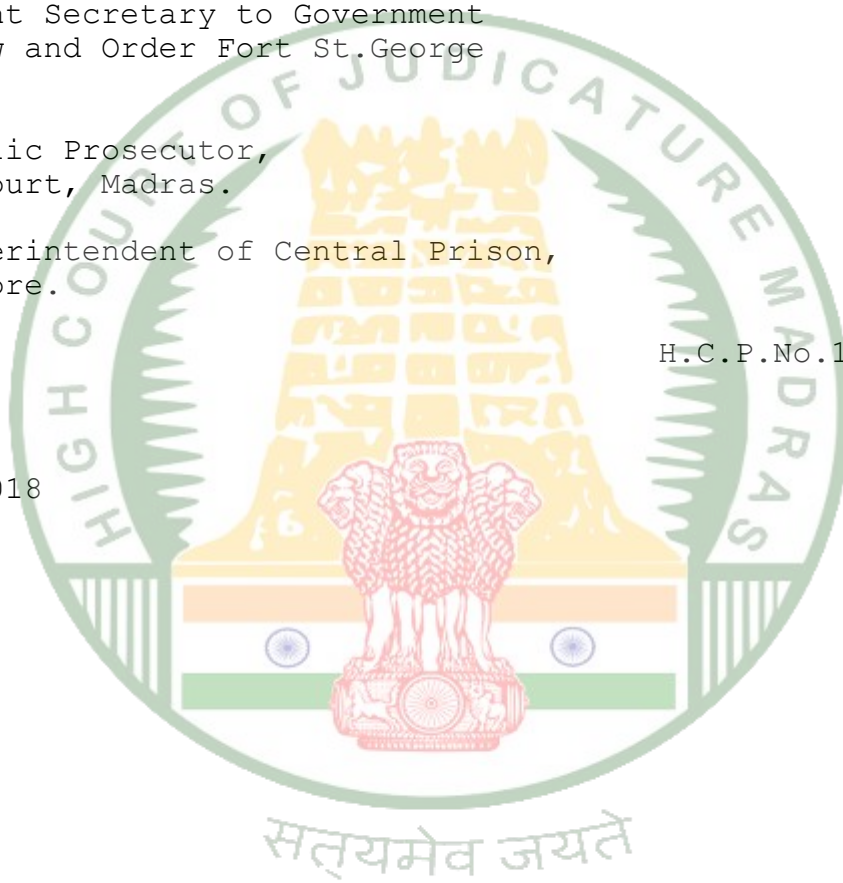
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To

- 1.The Secretary, Home,
Prohibition and Excise Department,
Fort St.George, Chennai - 600009.
- 2.The District Collector and District Magistrate,
Office of the District Collector and
District Magistrate,
Villupuram District
- 3.The Joint Secretary to Government
Public Law and Order Fort St.George
Chennai-9
- 4.The Public Prosecutor,
High Court, Madras.
- 5.The Superintendent of Central Prison,
Cuddalore.

H.C.P.No.1063 of 2018

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