

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.10.2018

CORAM:

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

H.C.P.No.1107 of 2018

Srinivasan @ Kona Seeni ... Petitioner

-Vs-

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

2.The Commissioner of Police,
Greater Chennai,
Chennai.

... 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 order of detention NO.292/BCDFGISSSV/2018 dated, 03.05.2018 passed by the 2nd respondent and to quash the same and also to direct the detenu Srinivasan @ Kona Seeni, S/O.Dhandapani, who is presently detained in the Central Prison, Puzhal, Chennai to be produced before this Hon'ble court and set at liberty.

For Petitioner : Mr.K.S.Kaviarasu

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]

Challenge is made to the order of detention passed by the second respondent vide Proceedings in No.292/BCDFGISSSV/2018 dated 03.05.2018, whereby the detenu, by name, Srinivasan @ Kona Seeni, son of Dhandapani, aged about 39 years, was ordered to be detained under the provisions 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 of 1982) branding him as a "GOONDA".

2. The ground case has been registered against the detenu in Cr.No.551/2018 on the file of Inspector of Police, P-6 Kodungaiyur Police Station for offences u/s 341, 147, 148, 302, 506(ii) IPC. The detention order has been passed by second respondent in No.292/BCDFGISSSV/2018.

3. Though many grounds have been raised in the petition, the learned counsel appearing for the petitioner, confines his argument only in respect of non-application of mind on the part of the detaining authority in passing the order of detention.

4. Learned counsel appearing for the petitioner submitted that the detenu was arrested in the ground case in Cr.No.551/2018 on 02.04.2018; whereas the detention order was passed on 03.05.2018, i.e. Nearly after a lapse of 31 days. This inordinate delay in passing of detention order would vitiate the same. Further, the Grounds of Detention would reveal that the ground case was registered against him in Cr.No.551/2018 for offences u/s 341, 147, 148, 302, 506(ii) IPC. Admittedly, the detenu has not moved any bail applications in the ground case. When a bail application has not been moved, the logical conclusion would be that there is no likelihood of coming out on bail. Therefore, we are of the view that the finding of the Detaining Authority that there is likelihood of the detenu coming out on bail, is nothing but a clear non-application of mind and the Detaining Authority has not passed the order on merits ; but passed, based on mere ipsi dixit. Hence, we are of the view that the detention order is liable to be set aside.

5. In the result, the Habeas Corpus Petition is allowed and the order of detention in No.292/BCDFGISSSV/2018 dated 03.05.2018, passed by the second respondent is set aside. The detenu, namely, Srinivasan @ Kona Seeni, son of Dhandapani, aged about 39 years, is directed to be released forthwith unless his detention is required in connection with any other case.

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Sd/-
Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

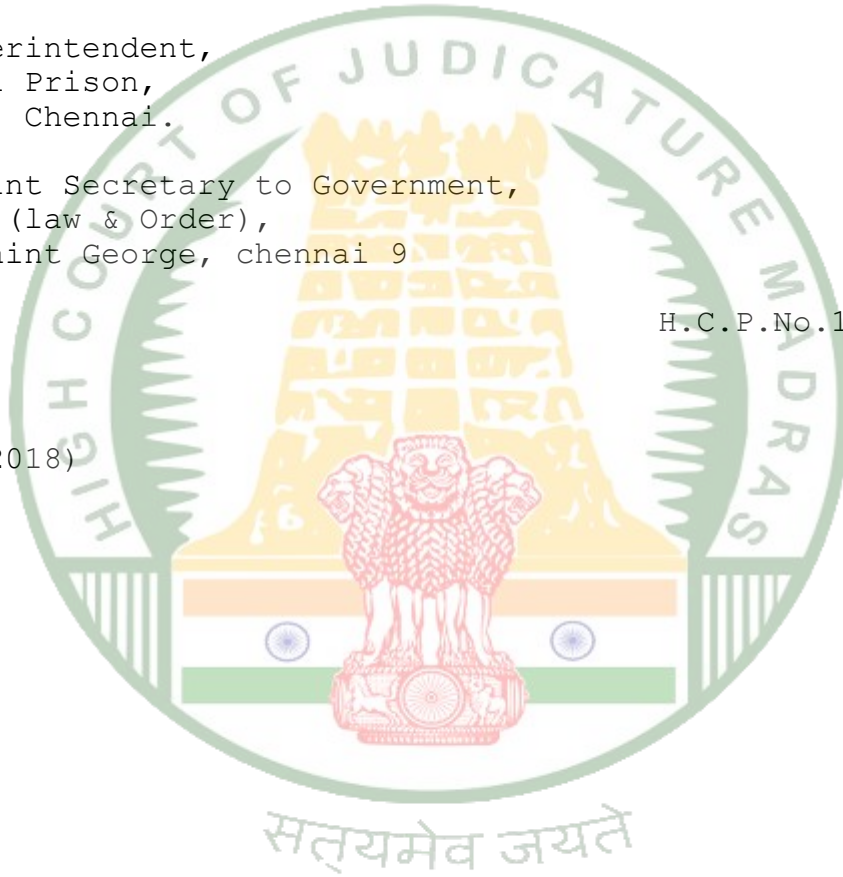
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To:

- 1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St.George, Chennai - 600009.
- 2.The Commissioner of Police,
Greater Chennai,
Chennai.
- 3.The Public Prosecutor,
High Court, Madras.
- 4.The Superintendent,
Central Prison,
Puzhal, Chennai.
5. The Joint Secretary to Government,
Public (law & Order),
Fort Saint George, chennai 9

H.C.P.No.1107 of 2018

RSK(CO)
GN(01/11/2018)



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