

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.10.2018

CORAM:

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

H.C.P.No.1117 of 2018

Rajesh @ Sapa Rajesh
S/o.Raji

...Petitioner/Defendant

-Vs-

1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, 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 in connection with the order of detention passed by second respondent dated 15.05.2018 in BCDFGISSSV No.327/2018, the detenu Rajesh @ Sapa Rajesh, M/A 32, S/o.Raji, who is confined at Central Prison, Puzhal, Chennai and to set aside the same and consequently direct the respondents to produce the detenu before this Court and set him 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]

Petitioner, who is the detenu, 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.327/BCDFGISSSV/2018 dated 15.05.2018.

2. The alleged ground case has been registered against the detenu in Crime No.551 of 2018 on the file of P-6 Kodungaiyur Police Station for offences under sections 341, 147, 148, 302

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 noticed that the detenu stands remanded to judicial custody in case registered in Crime No.551 of 2018 on the file of P-6 Kodungaiyur Police Station and has not filed any bail application. However, the detaining authority had informed that the relatives of the detenu were taking efforts to move application to take him out on bail and further, in a similar case, bail was granted by Principal Sessions Judge, Chennai in CrI.M.P.No.17395 of 2014 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 Crime No.551 of 2018. Therefore, the non-application of mind and erroneous subjective satisfaction arrived at by the detaining authority is apparent.

Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order passed by the second respondent, detaining the detenu, namely, Rajesh @ Sapa Rajesh S/o.Raji, in No.327/BCDFGISSSV/2018 dated 15.05.2018, is quashed. The above named detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

Sd/-

सत्यमेव जयते
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

gm

To

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

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

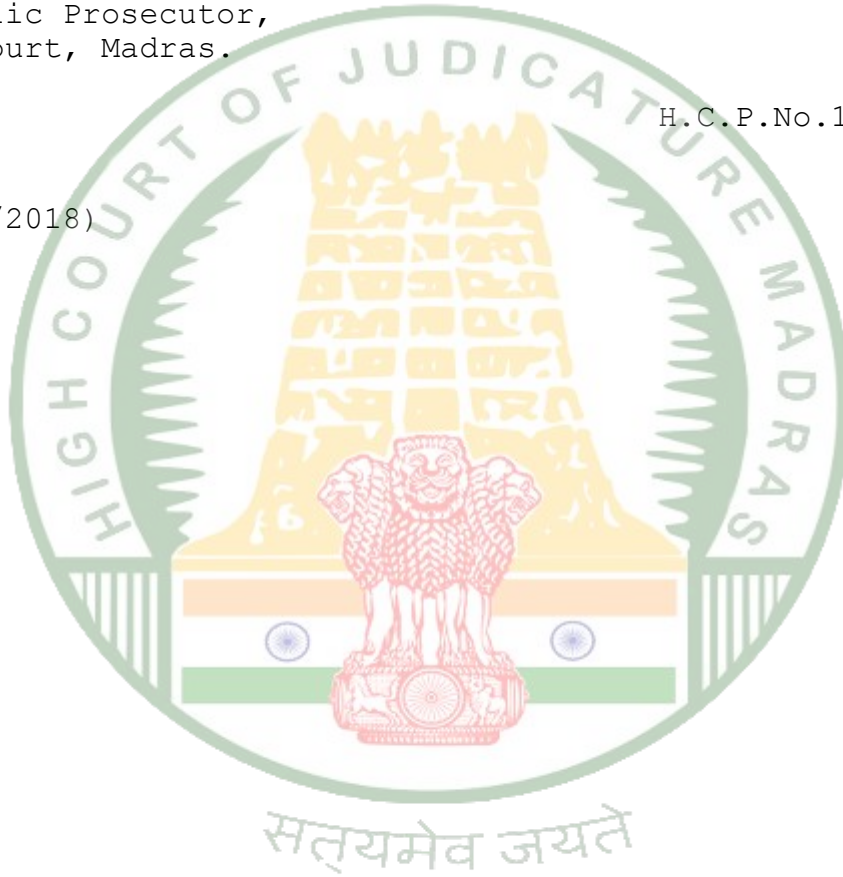
3.The Superintendent,
Central Prison, Puzhal, Chennai

4.The Joint Secretary to Government,
Public (Law & Order),
Fort St.George, Chennai-9

5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.1117 of 2018

GMR (CO)
GSP (01/11/2018)



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