

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.1128 of 2018

Sathya
D/o.Muthu

...Petitioner

vs.

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

2.Commissioner of Police,
Greater Chennai.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, calling for the records in connection with the order of detention passed by second respondent dated 21.04.2018 in Memo No.244/BCDFGISSSV/2018 against the petitioner's brother Suresh @ Market Suresh, Male aged 38 years, S/o.Muthu, who is confined at Central Prison, Puzhal II, Chennai and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.S.Senthilvel

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 sister of the detenu Suresh @ Market Suresh S/o.Muthu, who has been branded as 'Goonda' under the Tamil Nadu Act 14 of 1982 and detained under orders of second respondent passed in BCDFGISSSV No.244/2018 dated 21.04.2018. Such order is under challenge herein.

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

Sl.No.	Police Station and Crime No.	Offences u/s.
1.	R-2 Kodambakkam Police Station, Crime No.175/2018	379 IPC
2.	R-2 Kodambakkam Police Station, Crime No.178/2018	379 IPC
3.	R-2 Kodambakkam Police Station, Crime No.179/2018	379 IPC

The alleged ground case has been registered against the detenu in Crime No.180 of 2018 on the file of R-2 Kodambakkam Police Station for offences u/s.341, 294(b), 397, 323, 336, 427, 392 and 506(ii) IPC.

3. We have heard learned counsel for petitioner and learned Additional Public Prosecutor for respondents. Perused the materials on record.

4. The detaining authority noticed that the detenu is in remand in both adverse and ground case and has moved a bail application in the ground case and bail was granted but since he could not execute sureties, he is still in prison and hence, there is every likelihood of detenu coming out on bail by offering proper sureties and if he comes out on bail, he will indulge in further activities which will be prejudicial to the maintenance of public order. Once an order of bail has been granted and is pending execution of sureties, then the detaining authority cannot interdict the order of a Court granting bail by passing the order of detention. For the said reason, the order under challenge would have to fall.

Accordingly, the Habeas Corpus Petition is allowed and the detention order passed by the second respondent against the detenu viz., Suresh @ Market Suresh S/o.Muthu, in BCDFGISSSV No.244/2018 dated 21.04.2018 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/-
Assistant Registrar(CS IX)

//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.

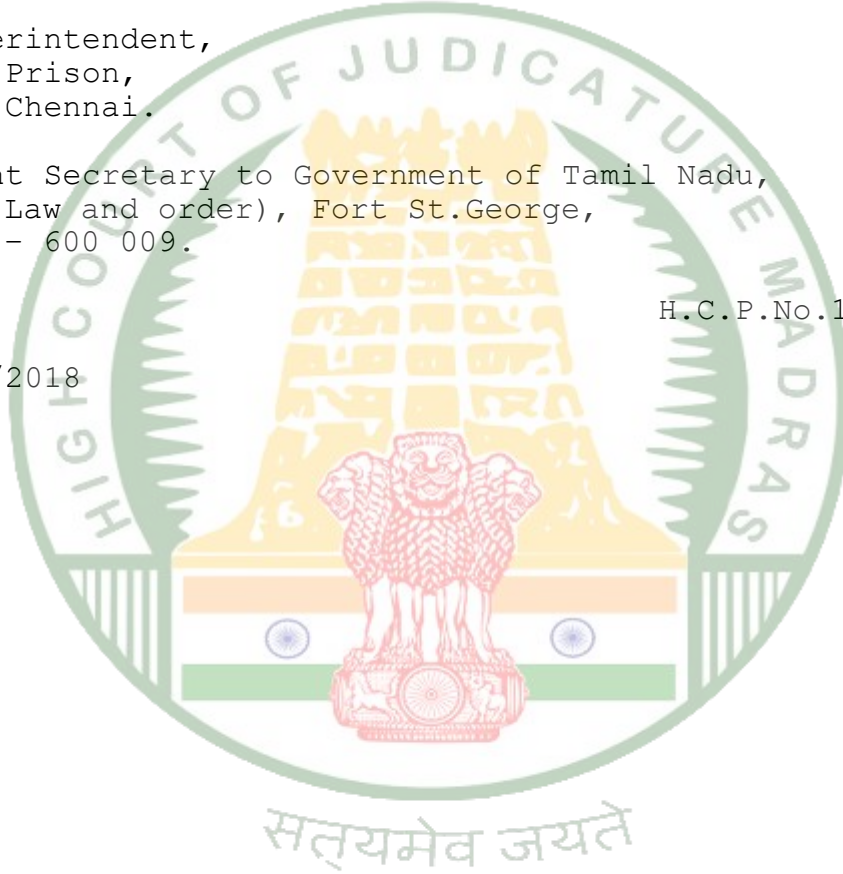
3.The Public Prosecutor,
High Court, Madras.

4.The Superintendent,
Central Prison,
Puzhal, Chennai.

5.The Joint Secretary to Government of Tamil Nadu,
Public (Law and order), Fort St.George,
Chennai - 600 009.

H.C.P.No.1128 of 2018

rrs 31/10/2018



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