

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 26.06.2018

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA
AND
THE HONOURABLE MRS. JUSTICE S.RAMATHILAGAM

H.C.P. NO. 185 OF 2018

Karunakaran

.. Petitioner/Father of
Detenue

- Vs -

1. The State of Tamil Nadu, rep. By
Secretary to Government
Home, Prohibition & Excise Dept.
Fort St. George, Chennai 600 009.
2. The Commissioner of Police
Greater Chennai, Vepery
Chennai.

...Respondents

prayer: Habeas Corpus Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of habeas corpus calling for the records pertaining to the order of detention passed in No.01/BCDFGISSSV/2018 dated 04.01.2018, passed by the 2nd respondent and set aside the same and direct the respondents to produce the detenu, Ajithkumar, S/o Karunakaran, aged about 21 years, before this Hon'ble Court and set him at liberty.

For Petitioner : Ms.L.Srilekha

For Respondents: Mr.R.Prathap Kumar, APP

ORDER

(DELIVERED BY DR. S.VIMALA, J.)

The second respondent, Commissioner of Police, Greater Chennai, clamped an order of detention on Ajithkumar, S/o Karunakaran, as the said authority arrived at the subjective satisfaction that the said detenu is a 'Goonda' and he has to be detained under Section 3 (1) of Tamil Nadu Act 14 of 1982 with a view to preventing him from acting prejudicial to the interest of public health and public order.

2. Challenging the order of detention, the petitioner has come forward with the present habeas corpus petition.

3. According to the learned counsel for the petitioner, the first adverse case is registered on 3.12.17 and the second adverse case is registered on 4.12.17, while the ground case has been registered on 5.12.17. According to the learned counsel, the above details clearly reveals that for each day, a case has been registered against the detenu, which is only for the purpose of showing him as a 'Goonda' and to detain him under the preventive detention laws.

4. It is further submitted by the learned counsel for the petitioner that no bail application has been moved by the detenu in the ground case, however, the detaining authority has referred that there is likelihood of the detenu coming out on bail by filing bail application and this non-application of mind by the detaining authority renders the detention illegal.

5. Heard Mr.R.Prathap Kumar, learned Addl. Public Prosecutor appearing for the respondents.

6. A perusal of the records reveal that the detaining authority, while recording that no bail application has been filed in the ground case, however, has went on to detain the detenu stating that there is likelihood of the detenu coming out on bail. The above view of the detaining authority is contrary to the records and the non-application of mind by the detaining authority and the subjective satisfaction arrived at on the basis noted above renders the order of detention illegal.

7. On this above ground, the order of detention is quashed. The habeas corpus petition is allowed. The Ajithkumar, S/o Karunagaran, is ordered to be set at liberty forthwith, unless his custody is otherwise required in any other case.

Sd/-

Assistant Registrar(CS VII)

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Sub Assistant Registrar

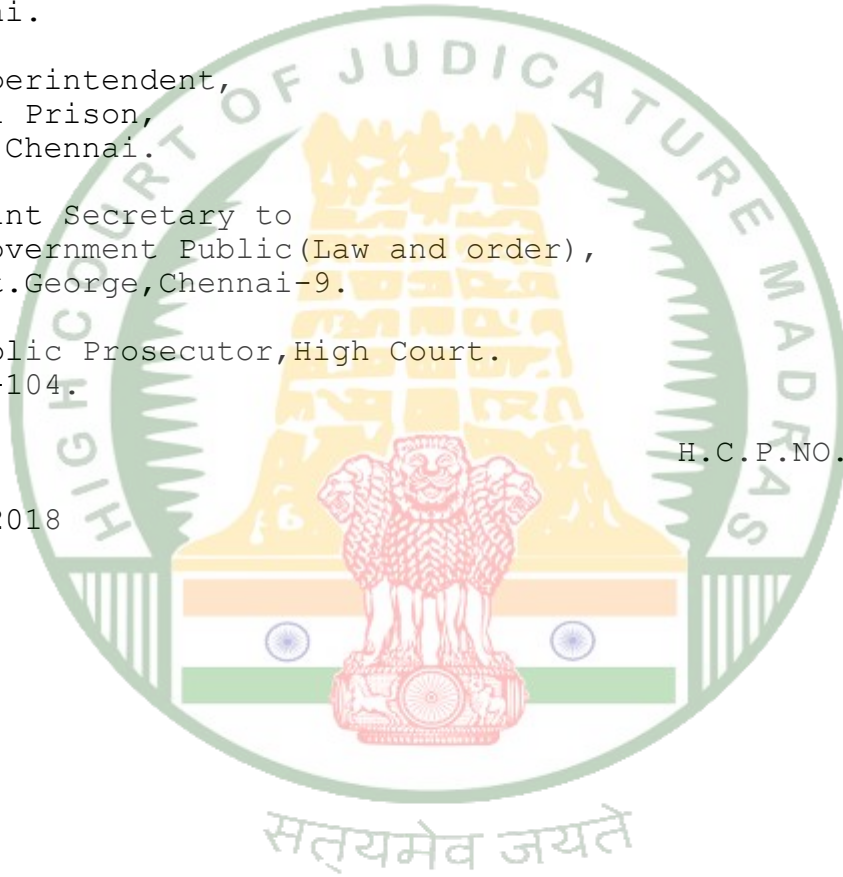
GLN

To

1. The Secretary to Government
Government of Tamil Nadu
Home, Prohibition & Excise Dept.
Fort St. George, Chennai 600 009.
2. The Commissioner of Police
Greater Chennai, Vepery
Chennai.
3. The Superintendent,
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-104.

H.C.P.NO.185 OF 2018

BM 18/07/2018



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