

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.10.2018

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

and

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

H.C.P.No.1183 of 2018

R.Jesima

W/o.Mohammed Rafiq

.. Petitioner

Vs.

1.State of Tamil Nadu

Rep. by its Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St. George, Chennai-600 009.

2.The Commissioner of Police,
Chennai Police (Goondas Section)
Vepery, Chennai-7.

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, calling for the records relating to the order of detention BCDFGISSSV.NO.336/2018 dated, 22/05/2018 passed by the 2nd respondent and to quash the same and also to direct the detenu Imransha M/A 25 years, S/O.Mohamed Rafiq, 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.M.Krishnamoorthy

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 BCDFGISSSV No.336/2018 dated 22.05.2018, whereby the detenu, by name, Imransha, son of Mohamed Rafiq, aged about 25 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 detenu has come to adverse notice in the following cases:-

S.No.	Police Station and Crime No.	Section of Law
1.	R-9 Valasaravakkam Police Station Crime No.97/2018	406, 420 r/w 468 IPC
2.	R-9 Valasaravakkam Police Station Crime No.139/2018	406, 420 IPC
3.	R-9 Valasaravakkam Police Station Crime No.152/2018	420 IPC

The ground case has been registered against the detenu in Cr.No.160/2018 on the file of Inspector of Police, R-9 Valasaravakkam Police Station, for offences u/s 341, 294(b), 397 and 506(ii) IPC. The detention order has been passed by second respondent in BCDFGISSSV No.336/2018.

3. Learned counsel for petitioner submits that despite the admitted position that the detenu has not filed any bail application in the adverse cases in Crime Nos.97/2018, 139/2018 and 152/2018 on the file of R-9 Valasaravakkam Police Station, the detaining authority has informed a real possibility of his coming out on bail by filing a bail application. In support of such inference, there absolutely is no material. It has not been shown that either the detenu/his relatives/friends were making arrangements to move a bail application on his behalf. It is, therefore, submitted that the detaining authority has arrived at subjective satisfaction without entering upon objective consideration.

4. We have heard learned Additional Public Prosecutor on the above submissions and also perused the records.

5. Finding that the subjective satisfaction arrived by the detaining authority is erroneous and for the reasons put forth by learned counsel for the petitioner, this Court would allow the present petition.

6. Accordingly, the Habeas Corpus Petition is allowed and the order of detention in BCDFGISSSV No.336/2018 dated 22.05.2018, passed by the second respondent is set aside. The detenu, namely, Imransha, son of Mohamed Rafiq, aged about 25 years, is directed to be released forthwith unless his detention is required in connection with any other case.

-s/d-

Assistant Registrar(CS-IX)

True Copy

Sub-Assistant Registrar

kmi

To

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St. George, Chennai-600 009.

2.The Commissioner of Police,
Chennai Police (Goondas Section)
Vepery, Chennai-7.

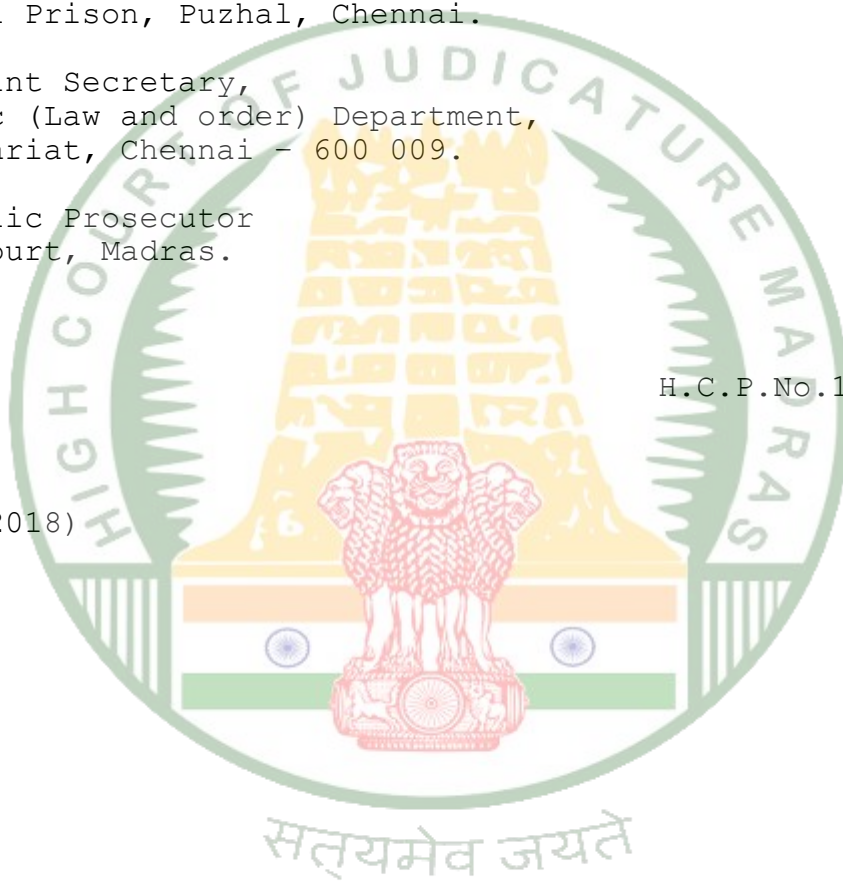
3.The Superintendent,
Central Prison, Puzhal, Chennai.

4. The Joint Secretary,
Public (Law and order) Department,
Secretariat, Chennai - 600 009.

5.The Public Prosecutor
High Court, Madras.

H.C.P.No.1183 of 2018

RSK(CO)
SP(12/11/2018)



WEB COPY