

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.07.2018

CORAM:

THE HON'BLE DR. JUSTICE S.VIMALA
AND
THE HON'BLE MRS. JUSTICE S.RAMATHILAGAM

H.C.P.No.307 of 2018

S.Archana ... Petitioner/Wife of Detenue

versus

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

2. The District Collector cum
District Magistrate,
Vellore District,
Vellore.

... Respondents

Habeas Corpus Petition filed under Article 226 of Constitution of India, for the issuance of Writ of Habeas Corpus, calling for the records pertaining to the order of detention passed by the 2nd respondent herein dated 31.01.2018 made in C3/D.O.No.10/2018 against the detenu Sathishkumar @ Bala, aged 27 years, S/o.Palani residing at No.9/1, Leather Godown Street, Old Town, Vellore, Vellore District, who is now confined in Central Prison, Vellore and set aside the same and direct the respondents to produce the detenu before this Court and set him at libert. सत्यमेव जयते

For Petitioner : Mr.Shanmugavelayutham,
Senior Counsel for
Mr.T.Vijayaraghavan
For Respondents: Mr.R.Prathap Kumar
Additional Public Prosecutor

ORDER

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

This Habeas Corpus Petition has been filed by the wife of the detenu seeking a direction to the respondents to produce the detenue, Sathishkumar @ Bala, S/o.Palani, who is now confined at Central Prison, Vellore, before this Court and to quash the

order of detention dated 31.01.2018 passed by the second respondent in C3/D.O.No.10/2018.

2. The second respondent herein, District Collector and District Magistrate, Vellore District, passed an order of detention dated 31.01.2018 as against the detenu Sathishkumar @ Bala, S/o.Palani, 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.

3. The learned counsel appearing for the petitioner submitted that the detenu himself surrendered before the Court on 19.02.2017 and there is a delay in passing the detention order itself. He further submitted that the co-accused has been released on bail and pending consideration of bail application filed by the detenu, this detention order has been passed, relying upon the bail granted to the co-accused.

4. A perusal of the bail order would reveal that bail has been granted to the co-accused only on the ground that there is no previous case pending against the co-accused. But, so far as this accused is concerned, only because of previous pending case, this detention order has been passed. However, that alone cannot be a reason to clamp the order of detention, as the subjective satisfaction should be arrived at on the basis of materials available on record. Further, bail is granted on the basis of facts and circumstances of each case. Therefore, the reason stated by the detaining authority that co-accused has been granted bail and therefore, there is possibility of the detenu coming out on bail, cannot be said to be correct and therefore, the subjective satisfaction arrived at by the detaining authority is vitiated. Therefore, the detention order is liable to be quashed.

5. Accordingly, the order of detention is quashed. The habeas corpus petition is allowed. The detenu, Sathishkumar @ Bala, S/o.Palani, is ordered to be set at liberty forthwith, unless his custody is otherwise required in any other case.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

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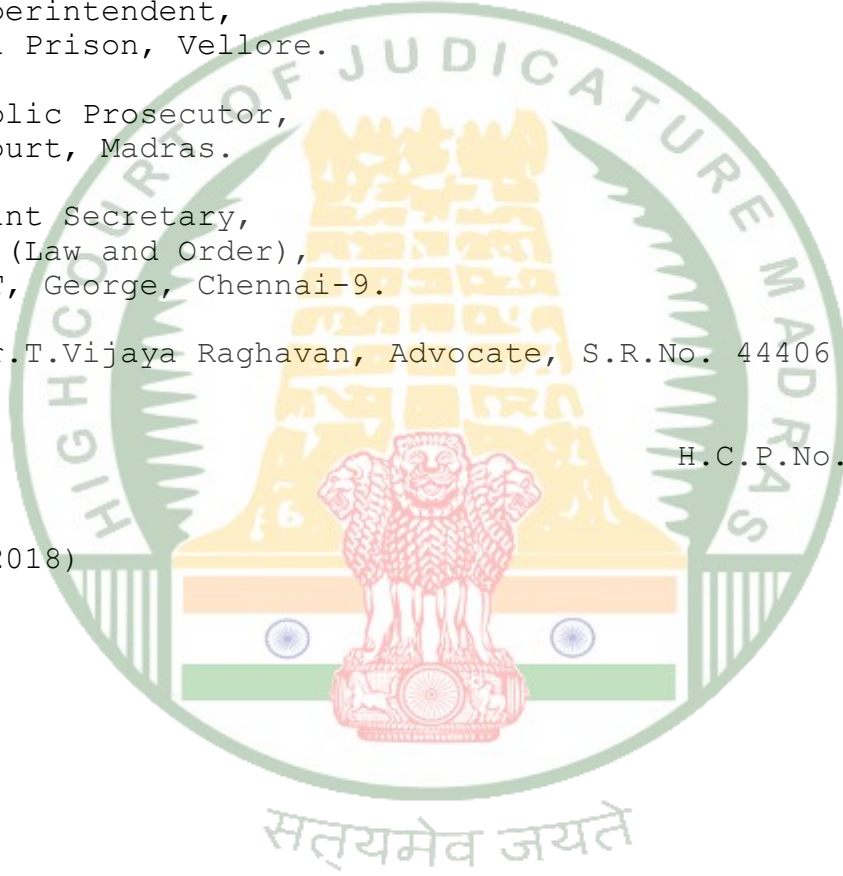
To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St. George,
Chennai - 600 009.
2. The District Collector cum
District Magistrate,
Vellore District, Vellore -9.
3. The Superintendent,
Central Prison, Vellore.
4. The Public Prosecutor,
High Court, Madras.
5. The Joint Secretary,
Public (Law and Order),
Fort.ST, George, Chennai-9.

+1cc to Mr.T.Vijaya Raghavan, Advocate, S.R.No. 44406

H.C.P.No.307 of 2018

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