

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 17.07.2018

CORAM

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

H.C.P. NO. 317 OF 2018

Vetriselvan

.. Petitioner

- Vs -

1. State of Tamil Nadu
rep. By its Secretary
Prohibition & Excise Dept.
Fort St. George, Chennai - 9.

2. The Commissioner of Police
Greater Chennai
Vepery, Chennai - 7.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of habeas corpus calling for the records on the file of the 2nd respondent relating to the detention in BCDFGISSSV No.45/2018 dated 30.1.2018 and direct the respondents herein to produce the detenu Arivukkarasan @ Arul, S/o Ejaman, aged about 26 years, before this Hon'ble Court and set him at liberty forthwith.

For Petitioner : Mr. C.Premkumar

For Respondents: Mr. R.Prathap Kumar, APP

ORDER

(ORDER OF THE COURT WAS MADE BY DR. S.VIMALA, J.)

The second respondent herein clamped an order of detention on Arivukkarasan @ Arul, S/o Ejaman, 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. Learned counsel appearing for the petitioner submitted that though the detenu has been granted bail in two cases,

however, for want of production of sureties, the detenu is unable to come out. However, the detaining authority has expressed subjective satisfaction for detaining the detenu stating that there is likelihood of the detenu coming out on bail without adverting to the fact that the detenu has already been granted bail in two cases.

3. This Court heard the learned Addl. Public Prosecutor on the above contentions.

4. A perusal of the order of detention reveals that the detaining authority has stated that there is possibility of the detenu coming out on bail and, therefore, has passed the order of detention. However, as pointed out by the learned counsel for the petitioner, the fact remains the detenu has been granted bail in two cases, which fact has not been taken note of by the detaining authority. Therefore, the subjective satisfaction arrived at by the detaining authority, therefore, stands vitiated and, therefore, the detention order is liable to be quashed.

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

Sd/-
Assistant Registrar(CS IX)

//True copy//

Sub Assistant Registrar

GLN

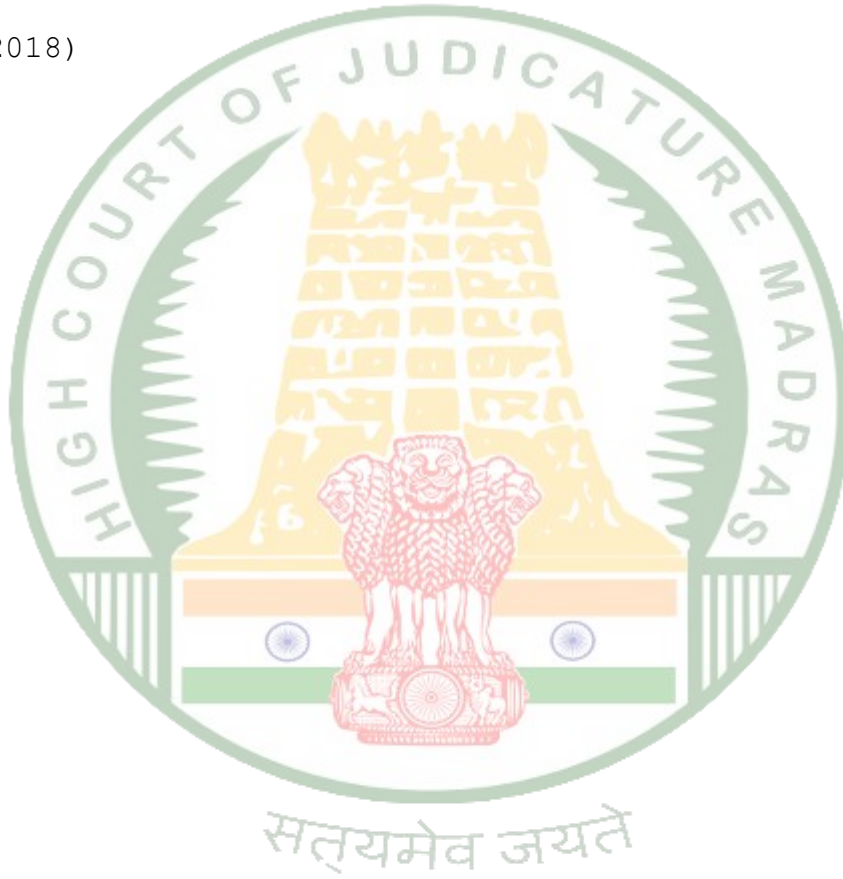
To

1. The Secretary to Government
Government of Tamil Nadu
Prohibition & Excise Dept.
Fort St. George, Chennai - 9.
2. The Commissioner of Police
Greater Chennai
Vepery, Chennai - 7.
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.

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AD(CO)
GN(10/08/2018)



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