

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE C.T.SELVAM

and

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

H.C.P. No.1878/2017

N.Maheswari

... Petitioner

-vs-

1.The State of Tamil Nadu
rep.by its Secretary to Government [Home]
Prohibition and Excise Department
Fort St George, Chennai 600 009.

2.The Commissioner of Police
Greater Chennai, Vepery
Chennai 600007.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the entire records of the 2nd respondent in his proceedings BCDFGISSSV No.553/2017 dated 08.09.2017, to quash the same and consequently, direct the respondents to produce the detenu Suresh @ Poochi Suresh, S/o.Nagaraj, aged 24 years now confined in Central Prison, Puzhal, set him at liberty forthwith.

For Petitioner : Mr.C.Premkumar

For Respondents: Mr.V.M.R.Rajentran
Additional Public Prosecutor

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ORDER
[Order of the Court by N.SATHISH KUMAR, J.]

The petitioner, who is the mother of the detenu, namely, Suresh @ Poochi Suresh, son of Nagaraj, age 24 years, challenges the impugned order of detention, dated 08.09.2017 in BCDFGISSSV No.553/2017 detaining her son as "Goonda", as contemplated under Section 2(f) of the Tamil Nadu Prevention of dangerous activities of Boot leggers, Drug Offenders, Forest Offenders,

Goondas, Immoral Traffic Offenders, Sand Offenders, Slum-grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14/1982).

2 We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondents. We have also perused the records produced by the Detaining Authority.

3 Though several grounds have been raised in the Habeas Corpus Petition, the learned counsel appearing for the petitioner, confines his argument only in respect of non-application of mind on the part of the detaining authority in passing the order of detention.

4 A perusal of the Grounds of Detention would reveal that 5 adverse cases have been registered against the detenu and a ground case was registered against him in Cr.No.1149/2017 for the offences u/s.341, 294[b], 336, 427, 397 and 506[ii] IPC. Admittedly, the detenu has not moved any bail applications in the adverse cases and the bail application filed by him in the ground case is pending. Therefore, the likelihood of coming out on bail is very remote ; whereas the statement of the Sponsoring Authority has been taken into consideration by the Detaining Authority that the relatives of the detenu are taking steps to file bail applications in the adverse cases. When a bail application has not been moved, the logical conclusion would be that there is no likelihood of coming out on bail. Therefore, we are of the view that the finding of the Detaining Authority that there is likelihood of the detenu coming out on bail, is nothing but a clear non-application of mind and the Detaining Authority has not passed the order on merits ; but passed, based on mere ipsi dixit. Hence, on this sole ground, the detention order is liable to be set aside.

5 In the result, the Habeas Corpus Petition is allowed and the order of detention in BCDFGISSSV No.553/2017 dated 08.09.2017, passed by the second respondent is set aside. The detenu, namely, Suresh @ Poochi Suresh, son of Nagaraj, aged about 24 years, is directed to be released forthwith unless his detention is required in connection with any other case.

sd/-

Assistant Registrar(CS VI)

//True copy//

Sub Assistant Registrar

AP

To:

1.The Secretary to Government [Home]
Prohibition and Excise Department,
State of Tamil Nadu,
Fort St George, Chennai 600 009.

2.The Commissioner of Police
Greater Chennai, Vepery
Chennai 600007.

3.The Public Prosecutor
High Court, Madras.

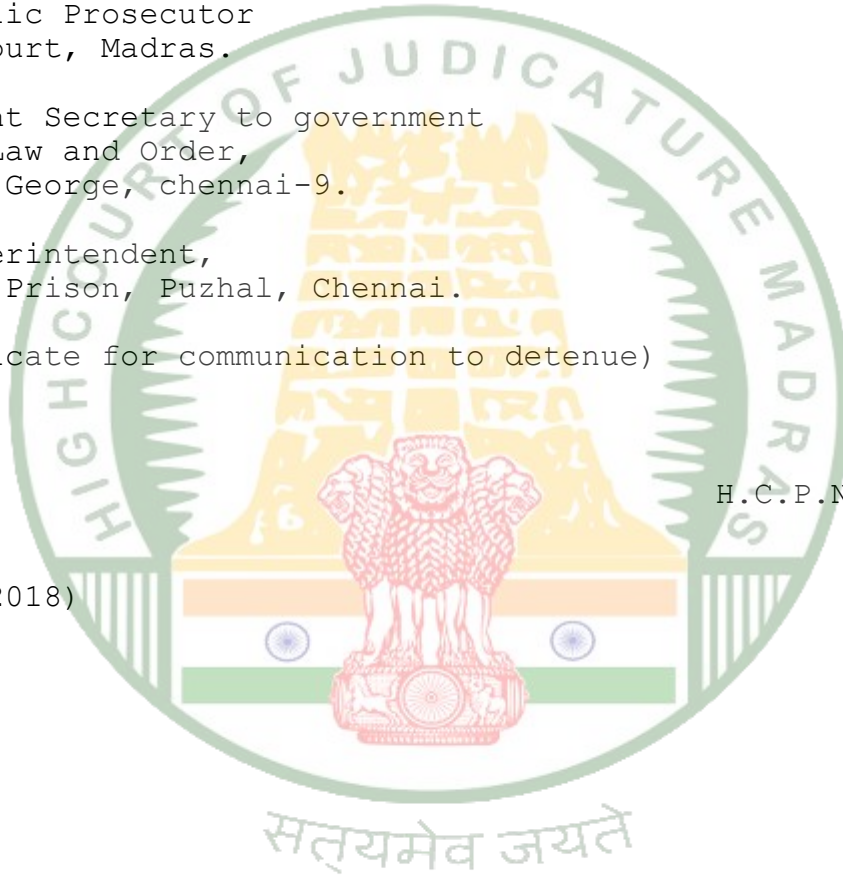
4.The Joint Secretary to government
Public Law and Order,
Fort.ST.George, chennai-9.

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

(In duplicate for communication to detenue)

H.C.P.No.1878/2017

SS (CO)
GN(06/02/2018)



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