

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.1908/2017

M.Sangeetha

... Petitioner

-VS-

1.The Secretary to Government of Tamilnadu,  
Home, Prohibition and Excise Department,  
Secretariat, Fort St George, Chennai – 9.

2.The Commissioner of Police  
Salem City, Salem.

3.The Inspector of Police  
Annadhanapatty Police Station  
Salem.

... Respondents

**PRAYER:** Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, to produce the detenu Murali @ Muralidharan, S/o.Janarthanan, aged about 29 years, was branded as Goonda by the order of detention passed by the 2<sup>nd</sup> respondent in CMP.No.73/GOONDA/SALEM CITY/2017 dated 11.09.2017 who is confined at Central Prison, Salem and set him at liberty.

For Petitioner : Mr.R.Paul Kanagaraj

For Respondents : Mr.V.M.R.Rajentren, APP

ORDER

[Order of the Court by C.T.SELVAM, J.]

The petitioner, who is wife of the detenu, namely, Murali @ Muralidharan, S/o.Janarthanan, age 29 years, challenges the impugned order of detention, dated 11.09.2017 in CMP.No.73/Goonda/Salem City/2017, detaining her husband 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 learned counsel for the petitioner and learned Additional Public Prosecutor appearing for the respondents. We have also perused the records produced by the Detaining Authority.

**3** The learned counsel for the petitioner would submit that the similar case relied on by the Detaining Authority relates to some other accused and not the co-accused of the detenu. He would further submit that the Detaining Authority has not satisfied himself as to the real possibility of the detenu coming out on bail.

**4** Per contra, the learned Additional Public Prosecutor while reiterating the averments in the counter affidavit would submit that the order of detention has been passed on cogent and sufficient materials and the same cannot be interfered with, at the instance of the petitioner.

**5** On a perusal of the impugned order of detention, in particular, the Grounds, we find that the Detaining Authority has stated that there was a real possibility of the detenu coming out on bail in the ground case as well as in the 2<sup>nd</sup> adverse case. Admittedly, at the time of passing the Detention Order, no bail application was filed in the ground case and the bail application filed in the 2<sup>nd</sup> adverse case, was pending as on the date of passing of the detention order. Though the detaining authority has made reliance on similar case in which an accused was granted bail, the facts involved in those cases are different. The principle of similarity cannot be applied mechanically. Normally, bails are granted baed on the facts and circumstances of each case. Therefore, similar case plea, cannot be taken into consideration. Hence, there is no material to substantiate that there is real possibility of the detenu coming out on bail and the said order was passed without

application of mind. Therefore, on this ground, the detention order is liable to be set aside.

**6** In the result, the Habeas Corpus Petition is allowed and the order of detention in CMP.No.73/Goonda/Salem City/2017 dated 11.09.2017, passed by the second respondent is set aside. The detenu, namely, Murali @ Muralidharan, son of Janarthanan, aged about 29 years, is directed to be released forthwith unless his detention is required in connection with any other case.

[C.T.S.,J.] [N.S.K.,J.]

17.01.2018

Internet : Yes

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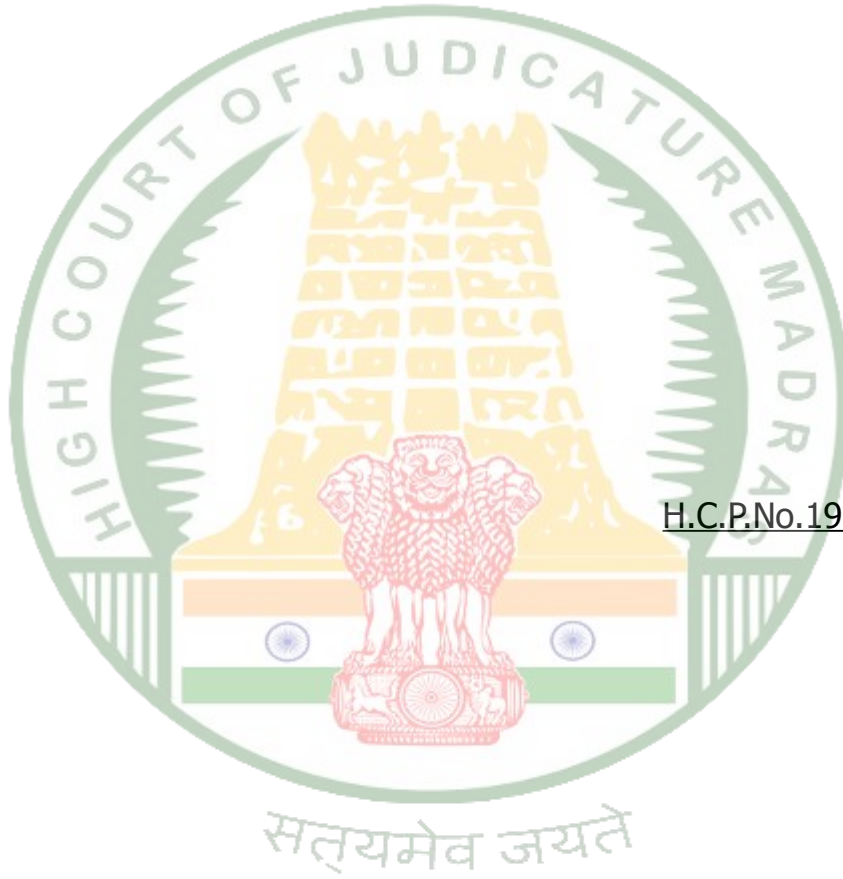
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Salem.
- 4.The Public Prosecutor,  
High Court, Madras.



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and  
N.SATHISH KUMAR, J.

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