

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE C.T.SELVAM
and
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

H.C.P.No.2009 of 2017

Mrs.Palaniammal

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Petitioner

-Vs-

1. The Commisisoner of Police,
Chennai Police,
The Office of the Commissioner of Police,
Vepery, Chennai-600 007.
2. The Government of Tamil Nadu,
Rep. by its Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St.George, Chennai-600 009.

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Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the records of the first respondent culminating with the order of detention bearing BCDFGISSS No.589/2017 dated 26.09.2017 passed by the First Respondent herein detaining my son Thiru.Karthick @ Mariyappan, son of Devadoss, aged 24 years, who is presently detained in the Central Prison, Puzhal Chennai to be produced before this Court and set at liberty.

For Petitioner: Mr.S.Mohanraj

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

ORDER

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

The petitioner, who is the mother of the detenu, namely, Karthick @ Mariyappan, son of Devadoss, age 24 years, challenges the impugned order of detention, dated 26.09.2017 in BCDFGISSSV No.589/2017 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.2580/2017 for the offences u/s.341, 323, 336, 392 r/w 397 and 506 (ii) IPC. Though the Detaining Authority has informed of the detenu having obtained bail and not having executed sureties and that detenu remained at jail, the Detaining Authority has not informed the awareness of otherwise the detenu taking steps towards his release on bail. Further, bail applications in the adverse cases against the detenu were pending. In the circumstance, the Detaining Authority informing the imminent possibility of the detenu being released on bail would not hold good. 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.

5. In the result, the Habeas Corpus Petition is allowed and the order of detention in BCDFGISSSV No.589/2017 dated 26.09.2017, passed by the first respondent is set aside. The detenu, namely, Karthick @ Mariyappan, son of Devadoss, aged about 24 years, is directed to be released forthwith unless his detention is required in connection with any other case.

-s/d-

Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

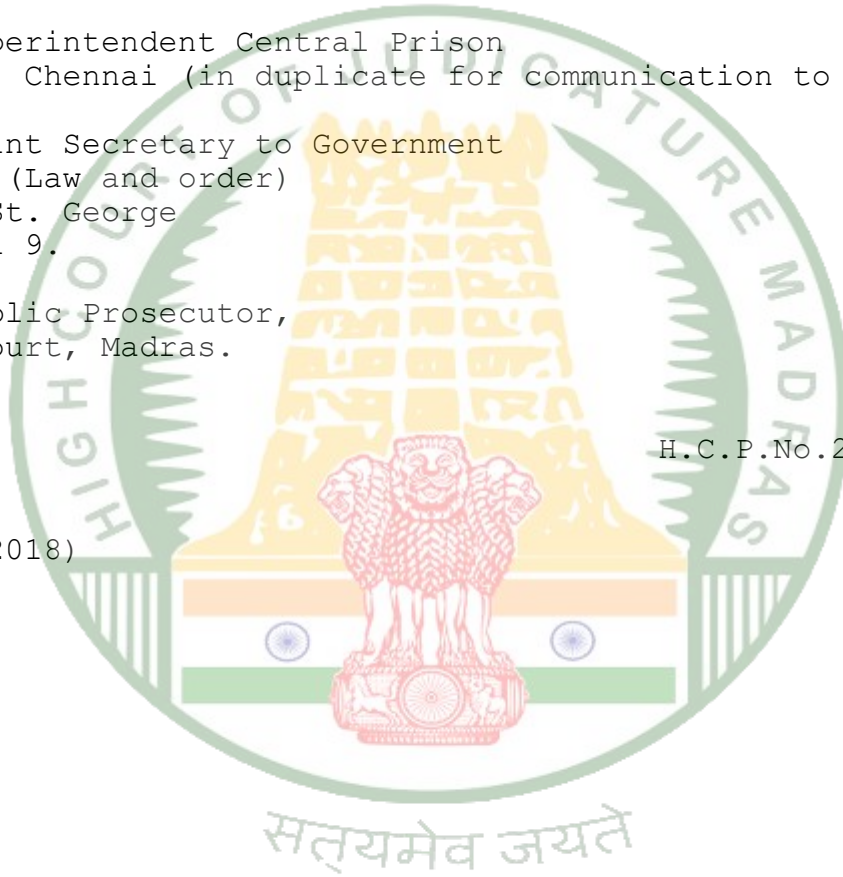
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To

1. The Commissioner of Police,
Chennai Police,
The Office of the Commissioner of Police,
Vepery, Chennai-600 007.
2. The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St.George,
Chennai-600 009.
3. The Superintendent Central Prison
Puzhal, Chennai (in duplicate for communication to detenu)
4. The Joint Secretary to Government
Public (Law and order)
Fort. St. George
Chennai 9.
5. The Public Prosecutor,
High Court, Madras.

H.C.P.No.2009 of 2017

RJ(CO)
SP(22/02/2018)



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