

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE C.T.SELVAM
and
THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

H.C.P.No.417 of 2018

Gowsalys
W/o.Munusamy

... Petitioner

-Vs-

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai - 600 009.
 - 2.The District Collector & District Magistrate,
O/o.The District Collector & District Magistrate,
Kancheepuram District,
Kancheepuram.
- ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the records made in connection with the order of detention passed by the second respondent dated 02.02.2018 in BCDFGISSSV No.07/2018 against petitioner's son, the detenu herein, now confined at Central Prison, Vellore, Chennai and set aside the same and direct the respondents to produce the detenu Kathavarayan S/o.Munusamy, aged about 23 years, before this Court and set him at liberty.

For Petitioner : Mr.A.Nirmal Kumar
For Respondents: Mr.M.Mohamed Riyaz
Additional Public Prosecutor

O R D E R

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

Petitioner is the mother of the detenu Kathavarayan S/o.Munusamy, who has been branded as a "Goonda" under the Tamil Nadu Act 14 of 1982 and detained under order of the second respondent passed in BCDFGISSSV No.07/2018 dated 02.02.2018.

2. The detenu came to adverse notice in the following cases:-

Sl.No .	Police Station and Crime No.	Sections of Law
1.	Manavala Nagar Police Station, Crime No.443/2016	147, 341, 302 IPC r/w 34, 201 IPC
2.	Sriperumbudur Police Station, Crime No.660/2017	147, 148, 341, 364, 120- B and 302 IPC

The alleged ground case has been registered against the detenu in Crime No.39 of 2018 on the file of Sriperumbudur Police Station for offences under sections 341, 294(b), 323, 397, 506(ii) and 307 IPC. Aggrieved by the order of detention, the present writ petition has been filed.

3. Amidst several grounds raised, learned counsel for petitioner submits that the detaining authority while noticing that the bail application filed by the detenu in the ground case in C.M.P.No.399 of 2018 on the file of District Sessions Court II, Kancheepuram, was dismissed, he had informed that the relatives of the detenu were taking efforts to move another application to take him out on bail and therefore, there was a real possibility of his coming out on bail and if he comes out on bail, he will indulge in further activities which will be prejudicial to the maintenance of public order. Though the detaining authority has informed of an effort by the relatives to move bail petition for the release of the detenu, there is no material to support such contention.

4. We have heard learned Additional Public Prosecutor on the above submissions and also perused the records.

5. We find that there absolutely is no material which would disclose the likelihood of the relatives of the detenu moving bail petition on his behalf in respect of the ground case. Therefore, the non-application of mind and erroneous subjective satisfaction arrived at by the detaining authority is apparent.

Accordingly, the impugned detention order passed by the second respondent, detaining the detenu, namely, Kathavarayan S/o.Munusamy, made in BCDFGISSSV No.07/2018 dated 02.02.2018, is quashed and the Habeas Corpus Petition is allowed. The above named detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

Sd/-
Assistant Registrar(CS)

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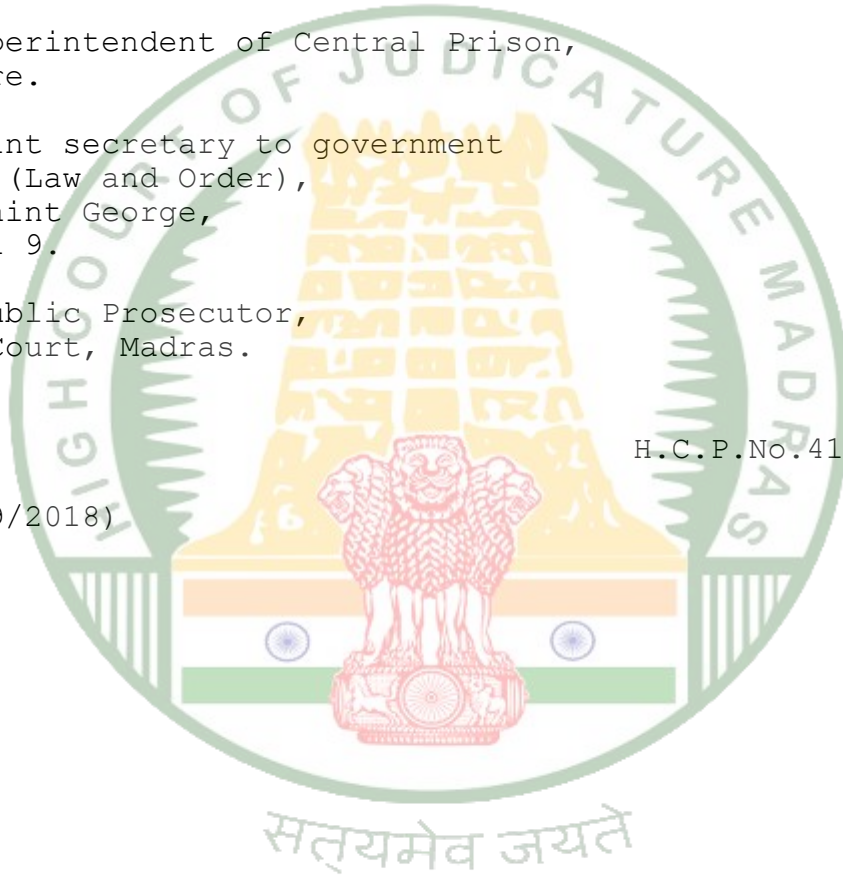
Sub Assistant Registrar

To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai - 600 009.
- 2.The District Collector & District Magistrate,
O/o.The District Collector & District Magistrate,
Kancheepuram District,
Kancheepuram.
- 3.The Superintendent of Central Prison,
Vellore.
- 4.The Joint secretary to government
public (Law and Order),
Fort.Saint George,
chennai 9.
- 5..The Public Prosecutor,
High Court, Madras.

H.C.P.No.417 of 2018

ASK(18/09/2018)



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