

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. 427 OF 2018

N.Soniya

.. Petitioner

- Vs -

1. The State of Tamil Nadu
rep. By its Secretary to Government
Home, Prohibition & Excise Dept.
Secretariat, Fort St. George
Chennai 600 009.

2. The District Magistrate &
District Collector
Dharmapuri District
Dharmapuri.

.. Respondents

Petition filed for the issuance of a writ of habeas corpus calling for the records pertaining to the detention order made in S.C. No.01/2018 dated 06.02.2018 on the file of the 2nd respondent herein and quash the same and direct the respondents to produce the detenu, Abinеш, S/o Ranganathan, now confined at Central Prison, Salem, before this Hon'ble Court and set him at liberty.

For Petitioner : Mr. R.Thamaraiselvan

For Respondents : Mr. R.Prathap Kumar, APP

ORDER

(DELIVERED BY DR. S.VIMALA, J.)

The 2nd respondent, clamped an order of detention on 06.02.2018 as against Abinеш, S/o Ranganathan, 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. Challenging the order of detention, the petitioner has has come forward with the present habeas corpus petition.

3. Heard Mr.Thamaraiselvan, learned counsel appearing for the petitioner and Mr.Prathap Kumar, learned Addl. Public Prosecutor appearing for the respondents.

4. A perusal of the grounds of detention reveals that the detaining authority has taken into account that in Crime No.35/2017 on the file of Palakode Police Station, which was originally registered u/s 174 Cr.P.C., and subsequently altered to one u/s 302 r/w 201 IPC, bail has been granted by the Principal Sessions Court, Dharmapuri, vide order dated 15.5.17 and, therefore, there is a real possibility of this accused coming out on bail. Bail is granted by the Courts on consideration of the facts and circumstances of each and every case and not as a matter of routine. Bail granted in one case does not mean that the accused will be granted bail in another similar case. Even if there is a possibility of the detenu coming out on bail, that alone cannot be the criteria to detain the detenu and the relevant consideration would be whether there is possibility of the detenu to indulge in similar acts is the main criteria that needs to be taken into account while passing the order of detention. The subjective satisfaction having been arrived at by the detaining authority, without proper application of mind, vitiates the order of detention and the detention order is liable to be quashed.

5. On this ground, the order of detention is quashed. The habeas corpus petition is allowed. The detenu, Abinash, S/o Ranganathan, is ordered to be set at liberty forthwith, unless his custody is otherwise required in any other case.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

GLN

To

1. The Secretary to Government
Home, Prohibition & Excise Dept.
Secretariat, Fort St. George
Chennai 600 009.

2. The District Magistrate &
District Collector
Dharmapuri District
Dharmapuri.

3.The Superintendent Central Prison,
Salem.

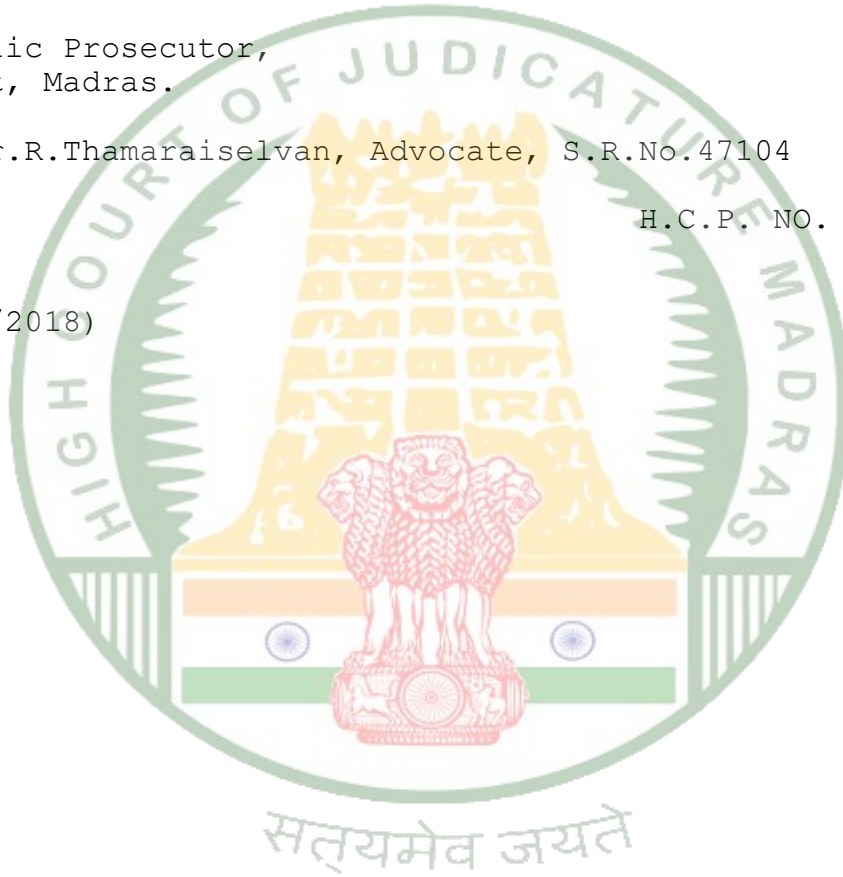
4.The Joint Secretary to Government Public,
(Law & Order Fort.saint George Chennai-9

5.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.R.Thamaraiselvan, Advocate, S.R.No.47104

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RR(CO)
GSP(25/10/2018)



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