

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.11.2018

CORAM:

THE HONOURABLE MR.JUSTICE C.T.SELVAM
and
THE HONOURABLE Mrs.JUSTICE S.RAMATHIL.AGAM

H.C.P. No.1588 of 2018

A.Shanthi

... Petitioner

-Vs-

1. The State Represented by,
The District Collector cum District Magistrate,
Villupuram District.
Villupuram.

2.The Secretary to Government,
Government of Tamil Nadu,
Home, Prohibition and Excise IX,
Secretariat,
St.George Fort,
Chennai - 600 009.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the records relating to the first Respondent in T.P.D.A 3161 dated 30.06.2018 with reference to (Detention order No.C2/16624/2018) dated 29.06.2018, setting aside the order of detention passed therein and directing the respondent to produce the detenu namely Arumugam, son of Marimuthu, before this court, now detained in Central Jail at Cuddalore and setting him at liberty.

For Petitioner : Mr. V.Gunasekar

For Respondents : Mr.R.Prathap Kumar
Additional Public Prosecutor

ORDER

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

Petitioner, who is the wife of the detenu, viz., Arumugam, Son of Marimuthu, aged 30 years, challenges the impugned order of detention, dated 29.06.2018 in No.C2/16624/2018 detaining her husband as "Bootlegger", as contemplated under Section 2(b) of the Tamil Nadu Prevention of dangerous activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum-grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14/1982).

2. The ground case has been registered against the detenu in Cr.No.262/2018 on the file of Kachirayapalayam Police Station for offences u/s 4(1)(aaa), 4(1-A) of Tamil Nadu Prohibition Act 1937. The detention order has been passed by first respondent in No.C2/16624/2018.

3. 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.

4. 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.

5. A perusal of the Grounds of Detention would reveal that the ground case came to be registered against him in Cr.No.262/2018 for offences u/s 4(1)(aaa), 4(1-A) of Tamil Nadu Prohibition Act 1937. Admittedly, the bail application filed by the detenu in the ground case before the learned Sessions Judge, Villupuram Sessions Division, Villupuram, in CrI.M.P.No.3075/2018 and the same was dismissed on 30.05.2018. Therefore, the probability of release of the detenu imminently does not arise. Hence, we are inclined to set aside 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 based 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.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention passed by the first respondent is set aside. The detenu is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

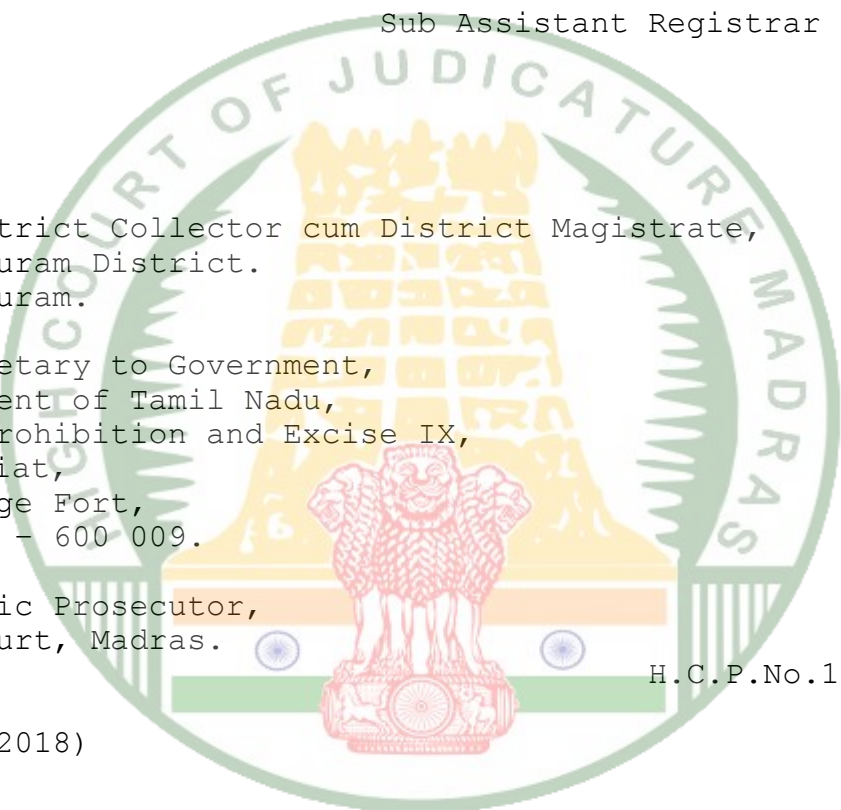
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To:

1. The District Collector cum District Magistrate,
Villupuram District.
Villupuram.
- 2.The Secretary to Government,
Government of Tamil Nadu,
Home, Prohibition and Excise IX,
Secretariat,
St.George Fort,
Chennai - 600 009.
- 3.The Public Prosecutor,
High Court, Madras.

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KAN(CO)
GMY(12/12/2018)

The seal of the High Court of Madras is a circular emblem. It features a central yellow temple gopuram (tower) with a red lion capital of Ashoka in front of it. The words "HIGH COURT OF JUDICATURE MADRAS" are inscribed around the perimeter. Below the emblem, the motto "सत्यमेव जयते" (Satyameva Jayate) is written in Devanagari script.

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