

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE C.T.SELVAM

and

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

H.C.P. No.2280 of 2017

C.Tamilselvi ... Petitioner/wife of the Detenu

-vs-

1.The Commissioner of Police
Chennai City,
Vepery, Chennai 600007.

2. The Secretary to the Government,
Government of Tamil Nadu, (Home)
Prohibition and Excise Department,
Fort St. George, 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 order of detention BCDFGISSSV No.570/2017 dated, 16/09/2017 passed by the 1st respondent and to quash the same and also to direct the detenu Chellappan, S/O.Sengeni, Male, Aged 45 years,, who is presently detained in the Central Prison, Puzhal Chennai to be produced before this Court and set at liberty.

For Petitioner: Mr.M.Hussaini Basha

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

ORDER

[Order of the Court by N.SATHISH KUMAR, J.]

The petitioner, who is the wife of the detenu, namely, Chellappan, son of Sengeni, age 45 years, challenges the impugned order of detention, dated 16.09.2017 in No.570/BCDFGISSSV/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 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 3 adverse cases have been registered against the detenu and a ground case was registered against him in Cr.No.1122/2017 for the offences u/s.341, 294[b], 323, 336, 397 and 506[ii] IPC. Admittedly, the detenu has not moved any bail applications in the adverse cases and the bail application filed by him in the ground case was dismissed on 20.08.2017. Therefore, the likelihood of coming out on bail is very remote ; whereas the statement of the Sponsoring Authority has been taken into consideration by the Detaining Authority that the relatives of the detenu are taking steps to file bail applications in the adverse cases. When a bail application has not been moved, the logical conclusion would be that there is no likelihood of coming out on bail. Therefore, we are of the view that the finding of the Detaining Authority that there is likelihood of the detenu coming out on bail, is nothing but a clear non-application of mind and the Detaining Authority has not passed the order on merits ; but passed, based on mere ipsi dixit. Hence, on this sole 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 No.570/BCDFGISSSV/2017 dated 16.09.2017, passed by the first respondent is set aside. The detenu, namely, Chellappan, son of Sengeni, aged about 45 years, is directed to be released forthwith unless his detention is required in connection with any other case.

s/d-
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

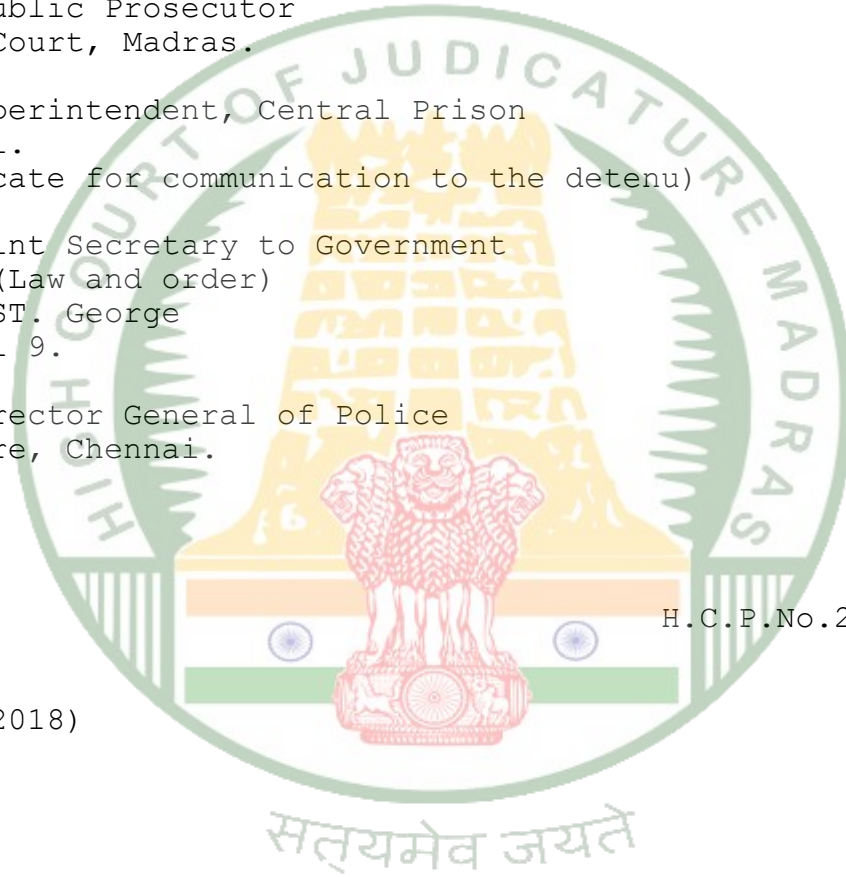
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To:

1. The Commissioner of Police
Chennai City,
Vepery, Chennai 600007.
2. The Secretary to the Government,
Government of Tamil Nadu, (Home)
Prohibition and Excise Department,
Fort St. George, Chennai-600 009.
3. The Public Prosecutor
High Court, Madras.
4. The Superintendent, Central Prison
Chennai.
(in duplicate for communication to the detenu)
5. The Joint Secretary to Government
Public(Law and order)
Fort. ST. George
Chennai 9.
6. The Director General of Police
Mylapore, Chennai.

MR(CO)
SP(16/02/2018)

H.C.P.No.2280 of 2017



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