

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 23.07.2018

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA
AND
THE HONOURABLE MRS. JUSTICE R.HEMALATHA

Habeas Corpus Petition No.466 of 2018

Shanmugam @ Shanmuga Prakash .. Petitioner / Detenu

- Vs -

1.State of Tamilnadu,
represented by its
Secretary to Government,
Home, Prohibition and Excise Department,
Fort Saint George, Chennai-600 009.

2.The District Collector and District Magistrate,
Cuddalore District,
Cuddalore. .. Respondents

Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of habeas corpus calling for the records of the 2nd respondent made in the detention order No.C3/D.O/01/2018, dated 04.01.2018 and to quash the same and to direct the respondents to produce the petitioner viz., Shanmugam @ Shanmuga Prakash, son of Kaliyamoorthy, who now undergoing detention in Central Prison, Cuddalore, before this Court and set the petitioner at liberty.

For Petitioner : Mr.V.Sridharan

For Respondents: Mr. R.Prathap Kumar, APP

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

This petition has been filed by the petitioner / detenu seeking to quash the detention order dated 04.01.2018, passed by the second respondent and for a direction to release the detenu, namely, Shanmugam @ Shanmuga Prakash.

2.Heard both sides.

3.The subjective satisfaction arrived at by the detaining authority is under challenge on the ground that there is a finding that the detenu is likely to come out on bail. The learned counsel for the petitioner submitted that the petitioner did not file any bail application so far, but the order is not based on the likelihood of the accused coming out on bail by filing any application, however, the reason stated is that, in a similar case before Veppur Police Station in Crime No.104 of 2016, which was filed for the offences punishable under Sections 147, 148, 341, 506 (ii), 307 and 302 I.P.C., bail has been granted to the accused therein, namely, Veerapandiyan by the Court of learned Judicial Magistrate No.I, Vridhachalam, on 19.07.2016.

4.The very fact that the bail has been granted by the learned Judicial Magistrate No.I, Vridhachalam, would also indicate that the same should have been the statutory bail on the expiry of time for filing the final report.

5.Under such circumstances, the inference that this accused is likely to be let on bail, has no basis and the subjective satisfaction arrived at by the detaining authority is not legally valid. Therefore, on the short ground, the detention order passed by the second respondent stands quashed. The habeas corpus petition is allowed. The detenu, Shanmugam @ Shanmuga Prakash, S/o.Kaliyamoorthy, is ordered to be set at liberty forthwith, unless his custody is otherwise required in any other case.

Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

ia/srk

To

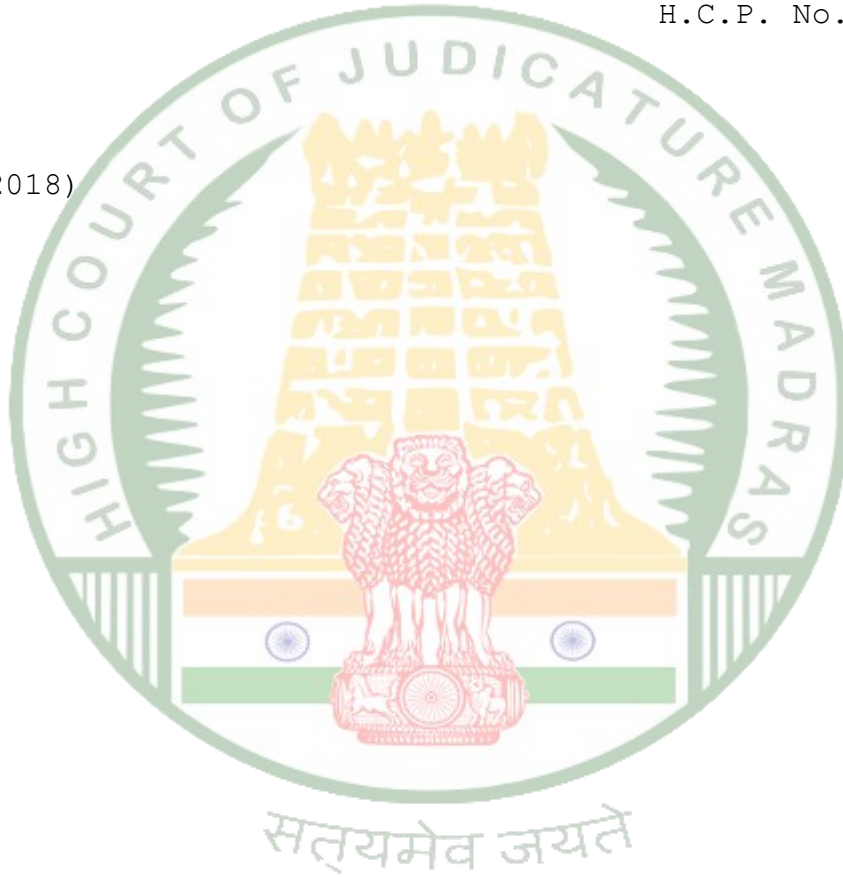
1. The Secretary to Government,
Home, Prohibition and Excise Department,
Fort Saint George, Chennai-600 009.

2.The District Collector
and District Magistrate,
Cuddalore District, Cuddalore.

- 3.The Superintendent of Prison,
Central Prison, Cuddalore.
- 4.The Public Prosecutor,
Madras High Court,
Chennai - 104.
5. The Joint Secretary to Government,
Public (law & Order),
Fort Saint George, chennai 9

H.C.P. No.466 of 2018

NRL (CO)
GN (25/10/2018)



WEB COPY