

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2018

CORAM:

THE HONOURABLE MR.JUSTICE C.T.SELVAM
and
THE HONOURABLE Mrs.JUSTICE S.RAMATHILAGAM

H.C.P. No.1658 of 2018

K.Krishnaveni

... Petitioner

-Vs-

1.The State of Tamil Nadu,
Rep. By its Additional Chief Secretary to Government,
Home, Prohibition & Excise Department,
Fort St.George, Chennai - 600 009.

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

...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 detention order dated 04.07.2018 made in detention order in C2/18915/2018 passed by the 2nd respondent herein quash the same and direct the respondents to produce the body of the detenu Thiru.Kumar alias Jayaraman, S/o. Karunakaran, aged 32, who has been detained in Central Prison at Cuddalore before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.R.Murugabharathi

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

ORDER

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

Petitioner, who is the mother of the detenu, viz., Kumar alias Jayaraman Son of Karunakaran, aged 32 years, challenges the impugned order of detention, dated 04.07.2018 in No.C2/18915/2018 detaining her son as "GOONDA", as contemplated under Section 2(f) 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.318/2018 on the file of the Inspector of Police, Kallakurichi Police Station, for offences u/s 294(b), 302 & 506 (ii) IPC. The detention order has been passed by second respondent in No.C2/18915/2018 on 04.07.2018.

3. We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondents. We have perused the counter affidavit as also 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 a ground case came to be registered against him in Cr.No.318/2018 for the offences u/s. 294(b), 302 & 506(ii) IPC. Admittedly, the bail application filed by the detenu in the ground case before the Court of Sessions, Viluppuram Sessions Division, in CrI.M.P.No.3357/2018 and the same was dismissed on 08.06.2018. 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 in No.C2/18915/2018, dated 04.07.2018, passed by the second respondent is set aside. The detenu, namely Kumar alias Jayaraman, Son of Karunakaran, aged 32 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

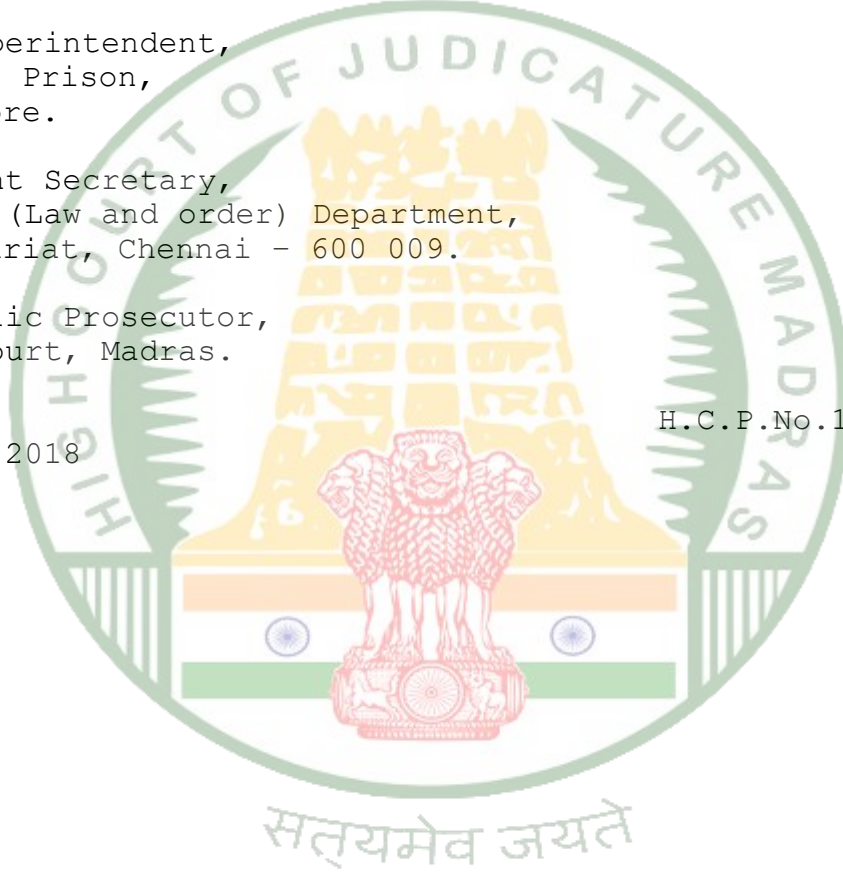
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To:

- 1.The State of Tamil Nadu,
Rep. By its Additional Chief Secretary to Government,
Home, Prohibition & Excise Department,
Fort St.George, Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Villupuram District,
Villupuram.
3. The Superintendent,
Central Prison,
Cuddalore.
- 4.The Joint Secretary,
Public (Law and order) Department,
Secretariat, Chennai - 600 009.
- 5.The Public Prosecutor,
High Court, Madras.

CSL/14.12.2018

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