

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE C.T.SELVAM
and
THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

H.C.P.No.517 of 2018

Vijaya
W/o.Rajendran

...Petitioner

-Vs-

1.State of Tamilnadu,
represented by
The Secretary,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600009.

2.The District Magistrate and District Collector,
Office of the District Collector and
District Magistrate,
Tiruvallur District.

...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 in BCDFGISSSV No.4/2018 dated 26.02.2018 passed by the second respondent under the Tamilnadu Act 14 of 1982 and set aside the same and direct the respondents to produce the petitioner's son Kalaiselvan @ Samu S/o.Rajendran, aged about 22 years, the detenu, now confined at Central Prison, Puzhal, Chennai before this Court and set the petitioner's son at liberty.

For Petitioner : Mr.D.Gopi Krishnan
For Respondents : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

O R D E R

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

Petitioner is the mother of the detenu viz., Kalaiselvan @ Samu S/o.Rajendran, who has been branded as a "Goonda" under the Tamil Nadu Act 14 of 1982 and detained under order of the second respondent passed in BCDFGISSSV No.04/2018 dated 26.02.2018.

2. The detenu came to adverse notice in the following cases:-

Sl.No .	Police Station and Crime No.	Sections of Law
1.	Periyapalayam Police Station, Crime No.313/2014	341, 324, 302 IPC @ 341, 324, 302, 34 IPC
2.	Periyapalayam Police Station, Crime No.31/2018	392 IPC

The alleged ground case has been registered against the detenu in Crime No.31 of 2018 on the file of Arani Police Station for offences under sections 341, 294(b), 307, 392 and 506(ii) IPC. Aggrieved by the order of detention, the present writ petition has been filed.

3. Learned counsel for petitioner submits that despite the admitted position that the detenu has not filed any bail application in the second adverse case in Crime No.31 of 2018 on the file of Periyapalayam Police Station for offence u/s.392 IPC, the detaining authority has informed a real possibility of his coming out on bail by filing a bail application. In support of such inference, there absolutely is no material. It has not been shown that either the detenu/his relatives/friends were making arrangements to move a bail application on his behalf. It is, therefore, submitted that the detaining authority has arrived at subjective satisfaction without entering upon objective consideration.

4. We have heard learned Additional Public Prosecutor on the above submissions and also perused the records.

5. Finding that the subjective satisfaction arrived by the detaining authority is erroneous and for the reasons put forth by learned counsel for the petitioner, this Court would allow the present petition.

Accordingly, the impugned detention order passed by the second respondent, detaining the detenu, namely, Kalaiselvan @ Samu S/o.Rajendran, made in BCDFGISSSV No.04/2018 dated 26.02.2018, is quashed and the Habeas Corpus Petition is allowed. The above named detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

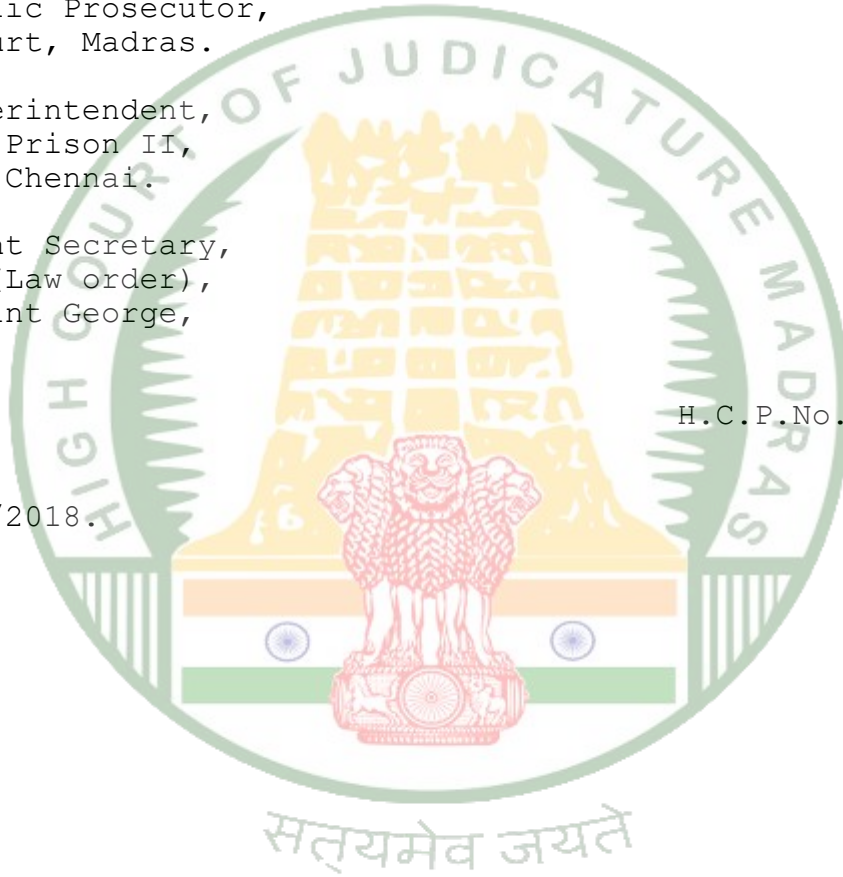
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To

- 1.The Secretary,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600009.
- 2.The District Magistrate and District Collector,
Office of the District Collector and
District Magistrate,
Tiruvallur District.
- 3.The Public Prosecutor,
High Court, Madras.
- 4.The Superintendent,
Central Prison II,
Puzhal, Chennai.
- 5.The Joint Secretary,
Public (Law order),
Fort Saint George,
Chennai.

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rrs 14/09/2018.



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