

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.556 of 2018

Mrs.Devi
W/o.Sebastin @ Seba ... Petitioner

-Vs-

- 1.The Secretary to Government
Home, Prohibition and Excise Dept.,
Secretariat, Chennai - 600 009.
- 2.The Commissioner of Police
Greater Chennai City, Vepery
Chennai - 600 007. ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the records in connection with the order of detention passed by the second respondent dated 05.03.2018 in Memo No.127/BCDFGISSSV/2018 against the petitioner's husband Thiru.Sebastin @ Seba who is confined at Central Prison, Puzhal and set aside the same and direct the respondents to produce the detenu namely Thriu.Sebastian @ Seba, aged about 36 years before this Court and set the detenu at liberty.

For Petitioner : Mr.R.Narendran

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 wife of the detenu viz., Sebastin @ Seba S/o.Devaraj, 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 No.127/BCDFGISSSV/2018 dated 05.03.2018.

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

Sl.No	Police Station and Crime No.	Sections of Law
1.	P-5 M.K.B.Nagar Police Station, Crime No.1381/2016	341, 302 r/w 34 IPC
2.	P-5 M.K.B.Nagar Police Station, Crime No.257/2018	341, 294(b), 384 and 506 (ii) IPC

The alleged ground case has been registered against the detenu in Crime No.255/2018 on the file of M.K.B.Nagar Police Station for offences under sections 341, 294(b), 336, 392, 397, 307 and 506(ii) IPC r/w Section 3 of TNPPDL Act. Aggrieved by the order of detention, the present writ petition has been filed.

3. Learned counsel for petitioner submits that whilst informing that the bail application moved by the detenu in the ground case in Crime No.255/2018 on the file of M.K.B.Nagar Police Station stood dismissed under orders dated 26.02.2018 in Crl.M.P.No.3394 of 2018 on the file of learned Principal Sessions Judge, Chennai and no bail application has been moved in one of the adverse cases in Crime No.257 of 2018, the detaining authority has also informed that the relatives of the detenu were taking efforts to move application to take him out on bail in the ground case and therefore, there was a real possibility of his coming out on bail and if he comes out on bail, he will indulge in further activities which will be prejudicial to the maintenance of public order. Though the detaining authority has informed of an effort by the relatives to move bail petition for the release of the detenu, there is no material to support such contention.

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, Sebastin @ Seba S/o.Devaraj, made in No.127/BCDFGISSSV/2018 dated 05.03.2018, 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.

-s/d-

Assistant Registrar(CS-IX)

True Copy

Sub-Assistant Registrar

To

1.The Secretary to Government
Home, Prohibition and Excise Dept.,
Secretariat, Chennai - 600 009.

2.The Commissioner of Police
Greater Chennai City, Vepery
Chennai - 600 007.

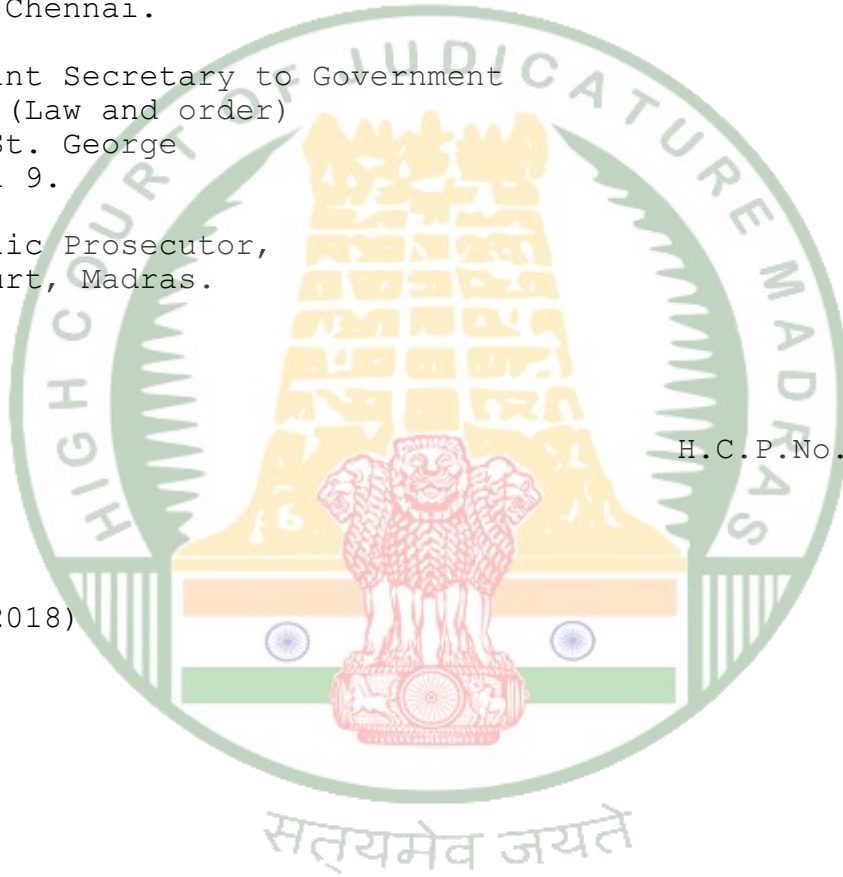
3.The Superintendent,
Central Prison,
Puzhal, Chennai.

4. The Joint Secretary to Government
Public (Law and order)
Fort. St. George
Chennai 9.

5.The Public Prosecutor,
High Court, Madras.

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RGN(CO)
SP(14/09/2018)



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