

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2018

CORAM:

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

H.C.P.No.707 of 2018

Rajathi
W/o.Dhanasekar

... Petitioner

-Vs-

1.The Commissioner of Police,
Commissioner Office - Greater Chennai,
Vepery, Chennai - 7.

2.The Secretary to Government of Tamil Nadu,
Prohibition & Excise Department (Home),
Secretariat, 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 of the first respondent in connection with the order dated 01.03.2018 in Memo No.123/BCDFGISSSV/2018 detaining Sathiya @ Bombay Raj, S/o.Kuppusamy, aged about 25 years, as a Goonda under Tamil Nadu Act 14 of 1982 and set aside the same and direct the respondent to produce the body of the said detenu, who is now lodged at Central Prison, Puzhal, Chennai, before this Court and set him at liberty.

For Petitioner : Mr.P.Prince Premkumar

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 brother of the detenu Sathiya @ Bombay Raj, who has been branded as a "Goonda" under the Tamil Nadu Act 14 of 1982 and detained under order of the first respondent passed in No.123/BCDFGISSSV/2018 dated 01.03.2018.

2. The detenu came to adverse notice in Crime No.13 of 2018 on the file of D.3 Ice House Police Station for offence u/s.302 IPC. The alleged ground case has been registered against the detenu in Crime No.14 of 2018 on the file of D.3

Ice House Police Station for offences under sections 341, 294 (b), 324, 336, 392, 397 and 506(ii) IPC. Aggrieved by the order of detention, the present writ petition has been filed.

3. Amidst several grounds raised, learned counsel for petitioner submits that the detaining authority while noticing that the detenu stands remanded to judicial custody in case registered in Crime Nos.13 and 14 of 2018 on the file of D.3 Ice House Police Station, had informed that the detenu has filed bail application in Crime No.14 of 2018 in CrI.M.P.No.3800 of 2018 on the file of Principal and District Sessions Court, Chennai and the same is pending and has not moved any bail application in Crime No.13 of 2018. However, the detaining authority had informed that the relatives of the detenu were taking efforts to move application to take him out on bail in the adverse 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. We find that there absolutely is no material which would disclose the likelihood of the relatives of the detenu moving bail petition on his behalf in respect of Crime No.13 of 2018. Therefore, the non-application of mind and erroneous subjective satisfaction arrived at by the detaining authority is apparent.

Accordingly, the impugned detention order passed by the first respondent, detaining the detenu, namely, Sathiya @ Bombay Raj, in No.123/BCDFGISSSV/ 2018 dated 01.03.2018, 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.

WEB COPY
Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

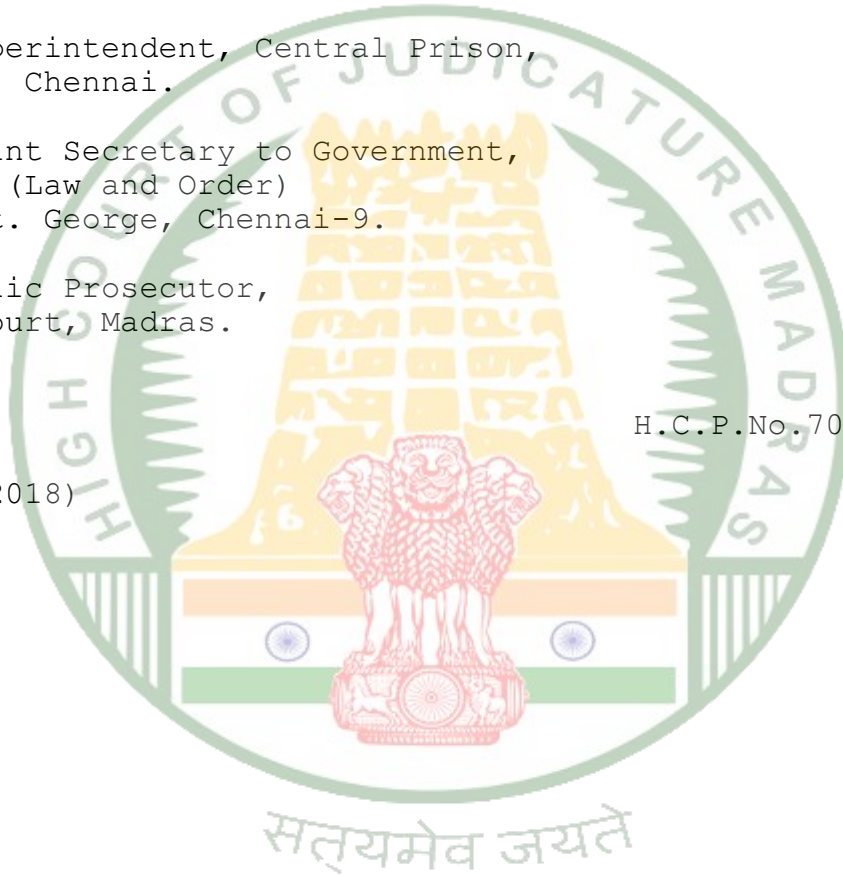
gm

To

- 1.The Commissioner of Police,
Commissioner Office - Greater Chennai,
Vepery, Chennai - 7.
- 2.The Secretary to Government of Tamil Nadu,
Prohibition & Excise Department (Home),
Secretariat, Fort St.George,
Chennai - 600 009.
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.

RG(CO)
EU(18/09/2018)

H.C.P.No.707 of 2018



WEB COPY