

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2018

CORAM:

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

H.C.P.No.1999 of 2018

Yosadha
W/o.Jai @ Jayaprakash ... Petitioner

-Vs-

- 1.The Secretary to the Government,
Home Prohibition and Excise Department,
Secretariat,
Chennai 600 009.
- 2.The Commissioner of Police,
Salem City. ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, to call for the records in connection with the order of Detention passed by the second respondent dated 25.08.2018 in C.M.P.No.53/Goonda/Salem City/2018 against the petitioner husband Jai @ Jayaprakash, Male aged 28 years S/o.Selvam, who is confined at Central Prison, Vellore and set aside the same and direct the respondents to produce the detenu before the Hon'ble Court and set him at liberty.

For Petitioner : Mr.D.Balaji
For Respondents: Mr.Prathap Kumar
Additional Public Prosecutor

O R D E R

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

Petitioner is the wife of detenu Jai @ Jayaprakash, S/o.Selvam, who has been branded as a 'Goonda' under the Tamil Nadu Act 14 of 1982 and detained under order of second respondent passed in C.M.P.No.53/Goonda/Salem City/2018 dated 25.08.2018.

2. The alleged ground case has been registered against the detenu in Crime No.285 of 2018 on the file of Hasthampatty Police Station for offences under sections 147, 148, 302 IPC @

into 120 (b), 147, 148, 302 & 109 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 is in remand in Crime No.285 of 2018 and has not moved any bail application, he had informed that the relatives of the detenu were taking efforts to move bail application to take him out on bail in Crime No.285 of 2018 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 Crime No.285 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 second respondent, detaining the detenu, namely, Jai @ Jayaprakash S/o.Selvam, made in C.M.P.No.53/Goonda/Salem City/2018 dated 25.08.2018, 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

True Copy

Sub-Assistant Registrar

gm/rst

To

1.The Secretary to the Government,
Home Prohibition and Excise Department,
Secretariat,
Chennai 600 009.

2.The Commissioner of Police,
Salem City.

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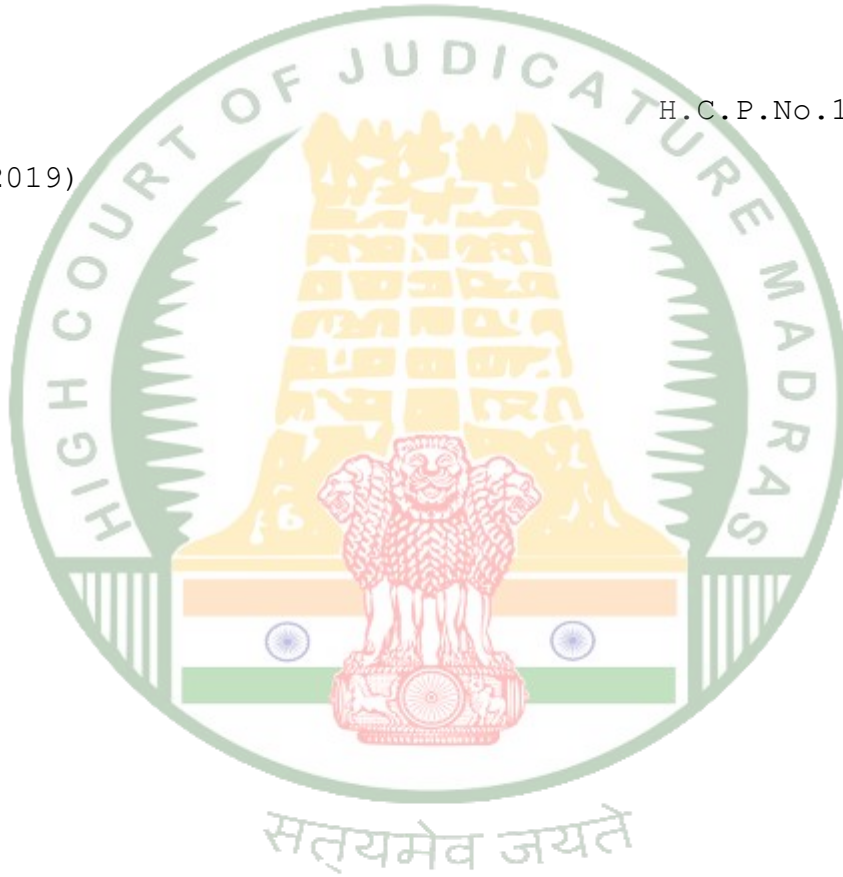
3.The Public Prosecutor,
High Court,
Madras.

4.The Superintendent of Central Prison,
Vellore.

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

H.C.P.No.1999 of 2018

SP(11/01/2019)



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