

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2018

CORAM:

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

H.C.P.No.853 of 2018

K.Jayanthi
W/o.Karthik

... Petitioner

-Vs-

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

2.The Commissioner of Police,
Greater Chennai, Chennai Police,
Office of the Commissioner of Police
(Goondas Section),
Vepery, Chennai.

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

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the entire records in connection with the detention order of second respondent in No.BCDEFGISSV/174/2018 dated 23.03.2018 and quash the same and direct the respondents to produce the body and person of the petitioner's husband by name Karthick S/o.Selvasekar, aged about 29 years, detained at Central Prison, Puzhal, Chennai, before this Court and set him at liberty forthwith.

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For Petitioner : Mr.P.Palanikumar

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 Karthik S/o.Selvasekar, 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.174/BCDFGISSSV/2018 dated 23.03.2018.

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

Sl.No .	Police Station and Crime No.	Sections of Law
1.	T12 Poonamallee Police Station, Crime No.1824/2017	341, 294(b) and 392 IPC
2.	T12 Poonamallee Police Station, Crime No.84/2018	341, 294(b), 392 and 506 (ii) IPC
3.	T9 Pattabiram Police Station, Crime No.356/2018	379 IPC

The alleged ground case has been registered against the detenu in Crime No.358 of 2018 on the file of T9 Pattabiram Police Station for offences under sections 341, 294(b), 336, 427, 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 is in remand in connection with the case registered in Crime Nos.356 and 358 of 2018 on the file of T9 Pattabiram Police Station and has moved bail application in the ground case and the same is pending and no bail application has been moved in one of the adverse cases i.e. Crime No.356 of 2018, he had informed that the relatives of the detenu were taking efforts to move bail application in such adverse case to take him out on bail 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 in one of the adverse cases, 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 one of the adverse cases. 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 second respondent, detaining the detenu, namely, Karthik S/o.Selvasekar, made in No.174/BCDFGISSSV/2018 dated 23.03.2018, 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.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

gm
To

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

2.The Commissioner of Police,
Greater Chennai, Chennai Police,
Office of the Commissioner of Police
(Goondas Section),
Vepery, Chennai.

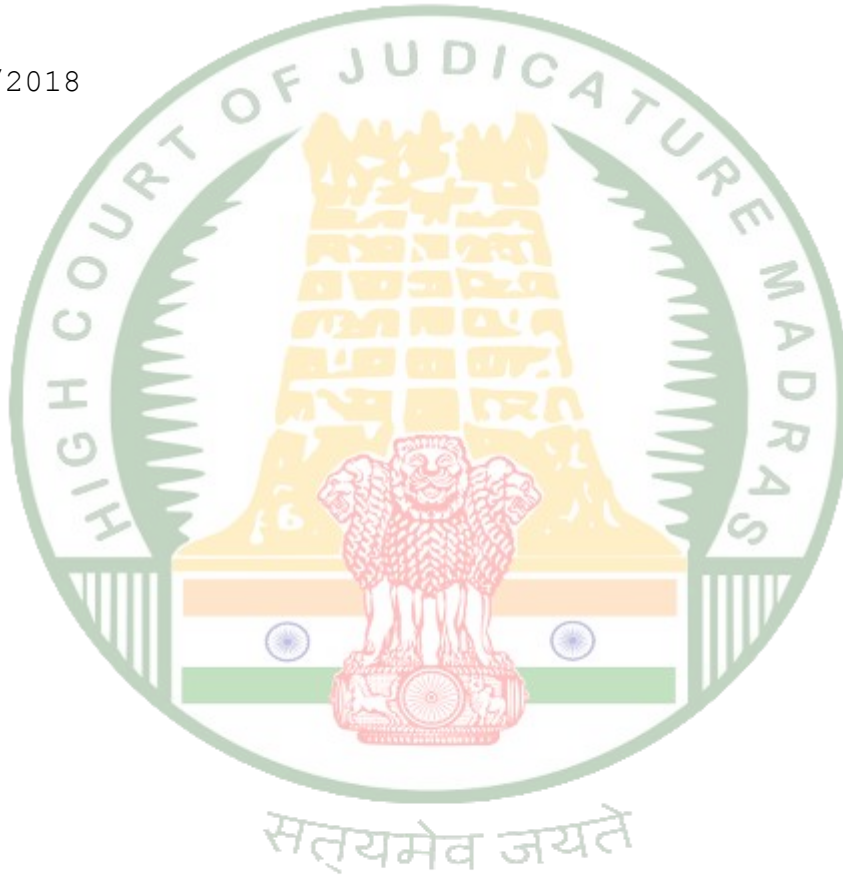
3.The Superintendent of Prison,
Central Prison,
Puzhal, Chennai.

4.The Public Prosecutor,
High Court, Madras.

5.The Superintendent of Central Prison,
Puzhal, Chennai.

H.C.P.No.853 of 2018

srg 26/09/2018



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