

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.09.2018

CORAM:

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

H.C.P.No.924 of 2018

Shanmugam
S/o.Mani

... Petitioner

-Vs-

1.State of Tamil Nadu
represented by the
Secretary,
Prohibition and Excise Department,
Fort St.George, Chennai - 600009.

2.The Commissioner of Police,
Greater Chennai,
Vepery, Chennai.

... 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 Memo No.BCDFGISSSV 237/2018 dated 17.04.2018 passed by the second respondent under Tamil Nadu Act 14 of 1982 and quash the same and direct the respondents to produce the detenu Viji @ Vijay S/o.Shanmugam, male aged 29 years, now confined at Central Prison, Puzhal, before this Court and set the detenu Viji @ Vijay S/o.Shanmugam, male aged 29 years, at liberty.

For Petitioner : Mr.S.Vellidoss

For Respondents: Mr.M.Mohamed Riyaz
Additional Public Prosecutor

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O R D E R

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

Petitioner is the father of the detenu Viji @ Vijay S/o.Shanmugam, 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.237/BCDFGISSSV/2018 dated 17.04.2018.

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

Sl.No .	Police Station and Crime No.	Sections of Law
1.	J-6 Thiruvanniyur Police Station, Crime No.3264/2016	147, 148, 341, 324, 307, 506(ii) r/w 149 IPC
2.	J-6 Thiruvanniyur Police Station, Crime No.3315/2016	341, 294(b), 323, 392 r/w 397, 336, 427 and 506(ii) IPC
3.	E-2 Royapettah Police Station, Crime No.227/2017	147, 148, 341 and 307 IPC
4.	J-6 Thiruvanniyur Police Station, Crime No.194/2018	324 and 506(ii) IPC

The alleged ground case has been registered against the detenu in Crime No.326 of 2018 on the file of J-6 Thiruvanniyur Police Station for offences under sections 341, 294(b), 397, 336, 427 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 Crime Nos.194 and 326 of 2018 on the file of J-6 Thiruvanniyur Police Station and has filed a bail application in the ground case and the same was dismissed and has not moved any bail application in Crime No.194 of 2018, he had informed that the relatives of the detenu were taking efforts to move fresh and further bail applications 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, 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 the ground case and adverse case. 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, Viji @ Vijay

S/o.Shanmugam, made in No.237/BCDFGISSSV/2018 dated 17.04.2018, 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 V)

//True Copy//

Sub Assistant Registrar

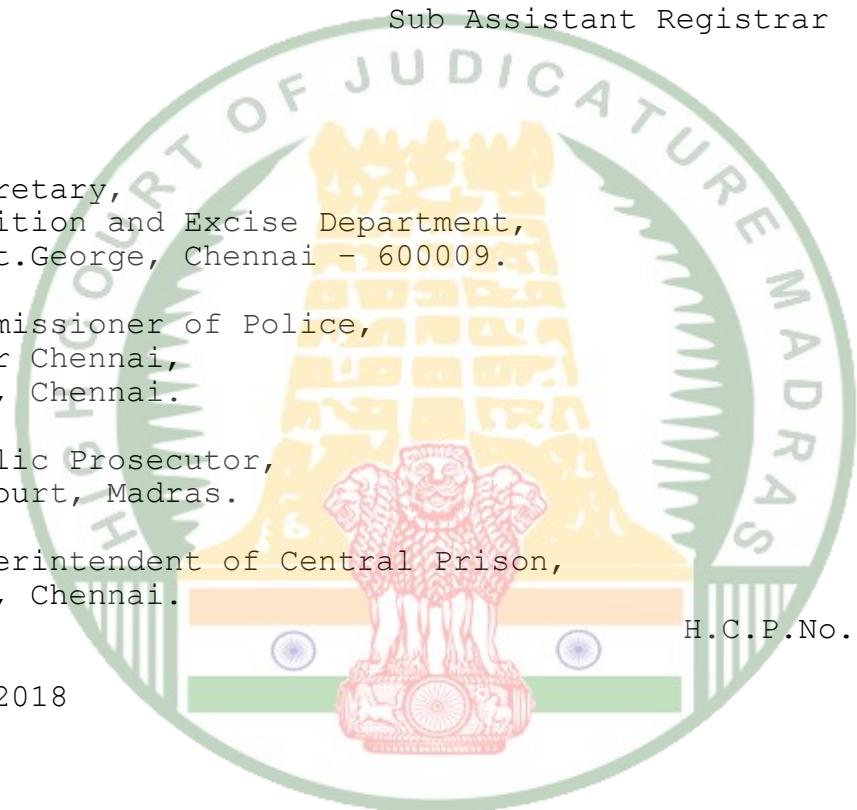
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To

- 1.The Secretary,
Prohibition and Excise Department,
Fort St.George, Chennai - 600009.
- 2.The Commissioner of Police,
Greater Chennai,
Vepery, Chennai.
- 3.The Public Prosecutor,
High Court, Madras.
- 4.The Superintendent of Central Prison,
Puzhal, Chennai.

H.C.P.No.924 of 2018

NR 11/10/2018

The seal of the High Court of Madras is a circular emblem. It features a central yellow temple gopuram (tower) with a red lion capital of Ashoka in front of it. The gopuram is set against a green background with a white border. The words "HIGH COURT OF JUDICATURE MADRAS" are written in a circular path around the central image. Below the seal, the Sanskrit motto "सत्यमेव जयते" (Satyameva Jayate) is written in Devanagari script.

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