

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2018

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

and

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

H.C.P.No.974 of 2018

Odukki @ Suresh
S/o.Premkumar

... Petitioner

vs.

1.State of Tamil Nadu
represented by
The Secretary to Government,
Department of Home, Prohibition and Excise,
Secretariat, Fort St.George,
Chennai.

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

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, calling for the records in Memo No.275/BCDFGISSSV/2018 passed by the second respondent on 30.04.2018, set aside the same and direct the respondents to produce the detenu Odukki @ Suresh, S/o.Premkumar, aged about 32 years, presently confined at Central Prison, Puzhal II, Chennai, before this Court and set him at liberty.

For Petitioner : Mr.A.Elumalai

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, who is the detenu, has been branded as "Goonda" under the Tamil Nadu Act 14 of 1982 and detained under orders of second respondent passed in 275/BCDFGISSSV/2018 dated 30.04.2018. Such order is under challenge herein.

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

Sl.No .	Police Station and Crime No.	Offences u/s.
1.	P5 MKB Nagar Police Station, Crime No.1047/2017	147, 148, 341, 302, 506(ii) IPC r/w 120(b) IPC
2.	M2 Madhavaram Milk Colony Police Station, Crime No.136/2018	384 IPC

The alleged ground case has been registered against the detenu in Crime No.218 of 2018 on the file of M1 Madhavaram Police Station for offences u/s.341, 294(b), 336, 427, 392, 397 and 506 (ii) IPC.

3. We have heard learned counsel for petitioner and learned Additional Public Prosecutor for respondents. Perused the materials on record.

4. The detaining authority noticed that the detenu has moved bail application in the ground case and bail was granted but since he could not execute sureties, he is still in prison and hence, there is every likelihood of detenu coming out on bail by offering proper sureties and if he comes out on bail, he will indulge in further activities which will be prejudicial to the maintenance of public order. Once an order of bail has been granted and is pending execution of sureties, then the detaining authority cannot interdict the order of this Court granting bail by passing the order of detention. For the said reason, the order under challenge would have to fall.

Accordingly, the Habeas Corpus Petition is allowed and the detention order passed by the second respondent against the detenu viz., Odukki @ Suresh S/o.Premkumar, in No.275/BCDFGISSSV/2018 dated 30.04.2018 is quashed. 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-VI)

//True Copy//

Sub Assistant Registrar

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To

1.The Secretary to Government,
Department of Home, Prohibition and Excise,
Secretariat, Fort St.George,
Chennai.

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

3.The Public Prosecutor,
High Court, Madras.

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

5. The Joint Secretary to Government,
Public (law & Order),
Fort Saint George, Chennai 9

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GN(05/10/2018)



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