

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.2123 of 2018

Poovathal
W/o.Nagendran

...Petitioner

-Vs-

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

2.The Commissioner of Police/
Detaining Authority
Huzur Road,
Coimbatore City,
Coimbatore - 18.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, to call for the entire records, relating to the petitioner's son detention under Tamil Nadu Act 14 of 1982 vide detention order, dated 15.09.2018 on the file of the second respondent herein made in proceedings Memo C.No.103/G/IS/2018, quash the same as illegal and consequently direct the respondents herein to produce the petitioner's son namely N.Surya, S/o.Nagendran, aged 25 years before this Hon'ble High Court and set the petitioner's son at liberty from detention, now the petitioner's son detained at Central Prison, Coimbatore.

For Petitioner : Mr.W.Camyles Gandhi

For Respondents: Mr.R.Prathap Kumar

Additional Public Prosecutor

O R D E R
[Order of the Court was made by C.T.SELVAM, J]

Petitioner is the mother of detenu N.Surya S/o.Nagendran, 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.No.103/G/IS/2018 dated 15.09.2018.

2. The detenu came to adverse notice in Crime No.928 of 2018 on the file of C-4 Rathinapuri Police Station, Coimbatore, City, for offences u/s. 436 and 307 IPC and 4 of Prevention of Damage to Public Property Act, 1984. The alleged ground case has been registered against the detenu in Crime No.943 of 2018 on the file of C-4 Rathinapuri Police Station, Coimbatore for offences under sections 294 (b), 323, 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 No.943 of 2018 and has not moved any bail application, he had informed that steps were being taken to move bail application to take him out on bail in Crime No.943 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.943 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, N.Surya S/o.Nagendran, made in C.No.103/G/IS/2018 dated 15.09.2018, 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/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

gm/rst

To

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

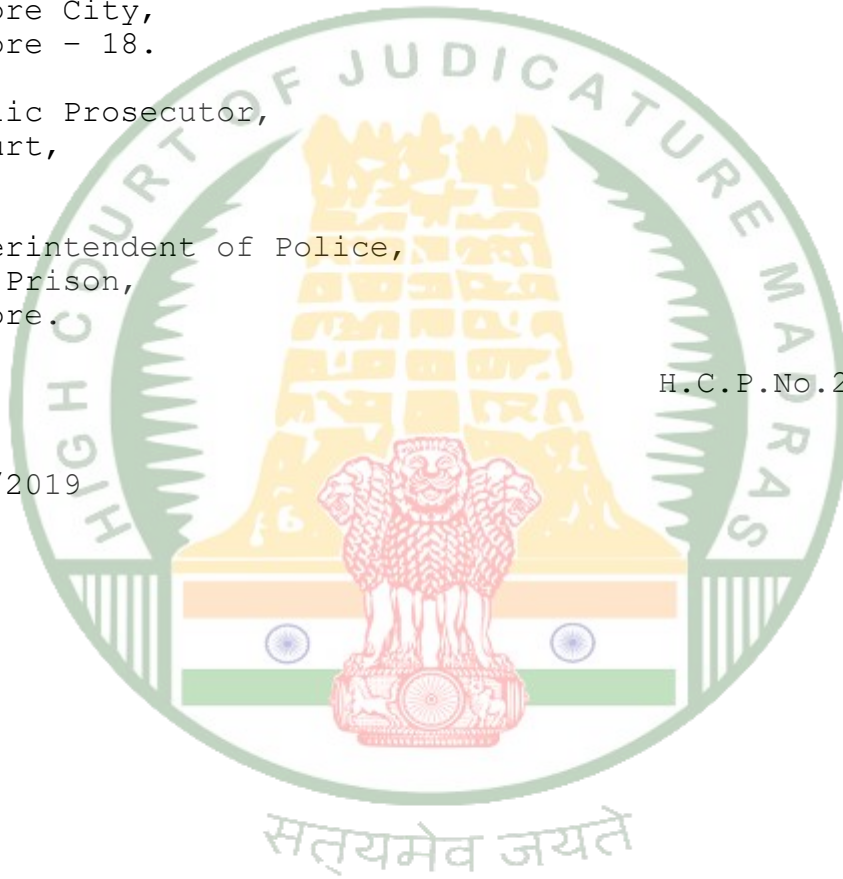
2.The Commissioner of Police/
Detaining Authority
Huzur Road,
Coimbatore City,
Coimbatore - 18.

3.The Public Prosecutor,
High Court,
Madras.

4.The Superintendent of Police,
Central Prison,
Coimbatore.

H.C.P.No.2123 of 2018

rrs 22/01/2019



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