

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.10.2018

CORAM

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

H.C.P.No.2168 of 2018

Saroja
W/o.Balakrishnan

... Petitioner

-vs-

1.State of Tamil Nadu
Rep. By the Secretary,
Home, Prohibition and Excise Department
Fort St. George, Chennai - 600 009.

2.District Collector and District Magistrate
Office of the District Collector and
District Magistrate,
Nagapattinam District.

... Respondents

Writ petition under Article 226 of the Constitution of India filed praying for issuance of a Writ of Habeas Corpus calling for the records relating to the detention order in C.O.C.No.15/2018, dated 02.03.2018 passed by the 2nd respondent under the Tamil Nadu Act 14 of 1982 and set aside the same and direct the respondent to produce the petitioner's husband Shanmugam @ Rape Manikandan, S/o.Balakrishnan aged about 33 years the detenu, now confined in Central Prison, Cuddalore before this Court and set the petitioner's husband Shanmugam @ Rape Manikandan, S/o.Balakrishnan aged about 33 years the detenu herein at liberty.

For Petitioner : Mr.J.Jawahar

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

ORDER

(Order of the Court was made by C.T.SELVAM, J)

Petitioner is the mother of the detenu Shanmugam @ Rape Manikandan S/o.Balakrishnan, 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.O.C.No.15/2018 dated 02.03.2018.

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

Sl.No.	Police Station and Crime No.	Offences u/s.
1.	Sembanarkoil Police Station, Crime No.189/2017	457, 511 IPC @ 457 and 380 IPC
2.	Kuthalam Police Station, Crime No.462/2017	394 IPC
3.	Kuthalam Police Station, Crime No.05/2018	294(b), 352, 386, 506(ii) IPC and 3(1) of Tamil Nadu Property (Prevention of Damage & Loss) Act, 1992 (Amended 1994)
3.	Mayiladuthurai Police Station, Crime No.16/2018	457 and 380 IPC

The alleged ground case has been registered against the detenu in Crime No.17 of 2018 for offences u/s.392 IPC and 3(1) of Tamil Nadu Property (Prevention

of Damage & Loss) Act, 1992 (Amended 1994). Aggrieved by the order of detention, the present writ petition has been filed.

3. Amidst several contentions, learned counsel for petitioner drew the attention of this Court to paragraph No.4 of the grounds of detention. The relevant portion of the same reads as follows:

'4. ... I am aware that he had moved a bail petition before the learned Judicial Magistrate Court No.I, Mayiladuthurai in Cr.M.P.No.727/2018 in connection with the above case and the same was dismissed by the learned Judicial Magistrate Court No.I, Mayiladuthurai on 20-02-2018. Hence, I infer that there is real possibility of his (Thiru Shanmugam @ Rape Manikandan, Male, aged 33/2018, S/o.Balakrishnan) coming out on bail by filing a bail application for the above case before the appropriate court and higher court. If he comes out on bail, he will indulge in such further activities, which will be prejudicial to the maintenance of public order and public peace'

4. Learned counsel for petitioner submits that despite the admitted position that the bail application moved by the detenu in the ground case has been dismissed, the detaining authority has informed a real possibility of his coming out on bail by filing a bail application. In support of such inference, there absolutely is no material. It has not been shown that either the detenu/his relatives/friends were making arrangements to move a bail

application on his behalf. It is, therefore, submitted that the detaining authority has arrived at subjective satisfaction without entering upon objective consideration.

5. We have heard learned Additional Public Prosecutor on the above submissions.

6. Finding that the subjective satisfaction arrived by the detaining authority is erroneous and for the reasons put forth by learned counsel for the petitioner, this Court would allow the present petition.

Accordingly, the impugned detention order passed by second respondent, detaining the detenu, namely, Shanmugam @ Rape Manikandan S/o.Balakrishnan, made in C.O.C.No.15/2018 dated 02.03.2018, 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.

[C.T.S., J] [M.N.K., J]
24.10.2018

Index: Yes/No
Internet: Yes
gm

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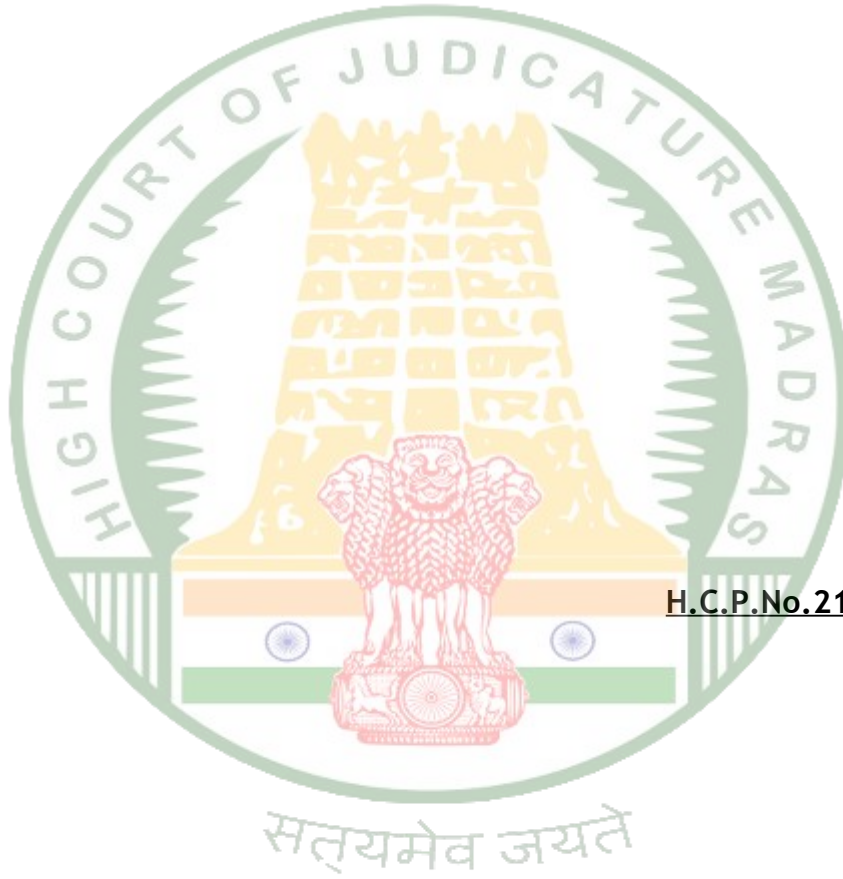
- 1.The Secretary,
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- 3.The Superintendent of Central Prison,
Cuddalore.
- 4.The Public Prosecutor,
Madras High Court,
Chennai.



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C.T.SELVAM, J
and
M.NIRMAL KUMAR, J

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