

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.06.2019

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice M.NIRMAL KUMAR

H.C.P.No.101 of 2019

Quarter Murugan @ Murugan

.. Petitioner

Vs

1.State of Tamil Nadu rep. By its
Principal Secretary,
Department of Home, Prohibition
and Excise, Secretariat,
Chennai - 600 009.

2.The Commissioner of Police,
Salem City.

3.The State rep. By
The Inspector of Police,
Kitchipalayam Police Station,
Salem.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for a writ of habeas corpus, to call for the records in C.M.P.No.61/GOONDA/SALEM CITY/2018 dated 30.08.2018 on the file of the 2nd respondent and quash the detention order as illegal and direct the respondents to produce the detenu QUARTER MURUGAN @ MURUGAN, son of Govindan aged about 37 years, detenu now confined at Central Prison, Salem and set him at liberty.

For Petitioner .. Mr.C.Pavendhan

For Respondents.. Mr.R.Prathap Kumar

Addl. Public Prosecutor

ORDER

(Order of the Court was made by M.M.SUNDRESH, J.)

The petitioner Quarter Murugan @ Murugan, S/o. Govindan, aged 37 years is the detenu. The detenu has been detained by the second respondent by his order in C.M.P.No.61/GOONDA/SALEM CITY/2018 dated 30.08.2018, holding him to be a "GOONDA", as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982.

The said order is under challenge in this Habeas Corpus Petition.

2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents. We have also perused the records produced by the Detaining Authority.

3. Amidst several grounds raised, learned counsel for the petitioner mainly focused his argument on the ground that when there is no bail application filed on behalf of the detenu, nor by the relatives of the detenu, there is no imminent possibility of him being released on bail and therefore, the impugned order has been passed without any supporting material. Hence the impugned order of detention is liable to be quashed.

4. Learned Additional Public Prosecutor submits that the names of the relatives have not been furnished nor any statement has been filed.

5. On a careful scrutiny of the impugned order, it is seen that the detaining authority, taking into account the imminent possibility of the detenu being enlarged on bail and the likelihood of the same is prejudicial to the public order and health, has passed the impugned detention order. A close reading of the entire booklet would show that the detaining authority has taken a decision to detain the detenu on the presumption that the relatives of the accused are taking steps to bail him out by filing application in respect of the adverse case in Crime No. 439 of 2018 and the ground case in Crime No. 413 of 2018 but no particulars have been furnished to that effect. Therefore, the detention order has been passed without any valid material, which shows clear non application of mind on the part of detaining authority in arriving at such conclusion. Thus, for the reasons stated herein-above, the impugned detention order cannot be sustained.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in C.M.P.No.61/GOONDA/SALEM CITY/2018 dated 30.08.2018, passed by the second respondent is set aside. The detenu, namely, Quarter Murugan @ Murugan, S/o. Govindan, aged 37 years, is directed to be released forthwith unless his detention is required in connection with any other case.

-s/d-
Assistant Registrar (CS-I)

True Copy

Sub-Assistant Registrar

mmi

To

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

2.The Commissioner of Police,
Salem City.

3.The Inspector of Police,
Kitchipalayam Police Station, Salem.

4.The Superintendent,
Central Prison, Salem.

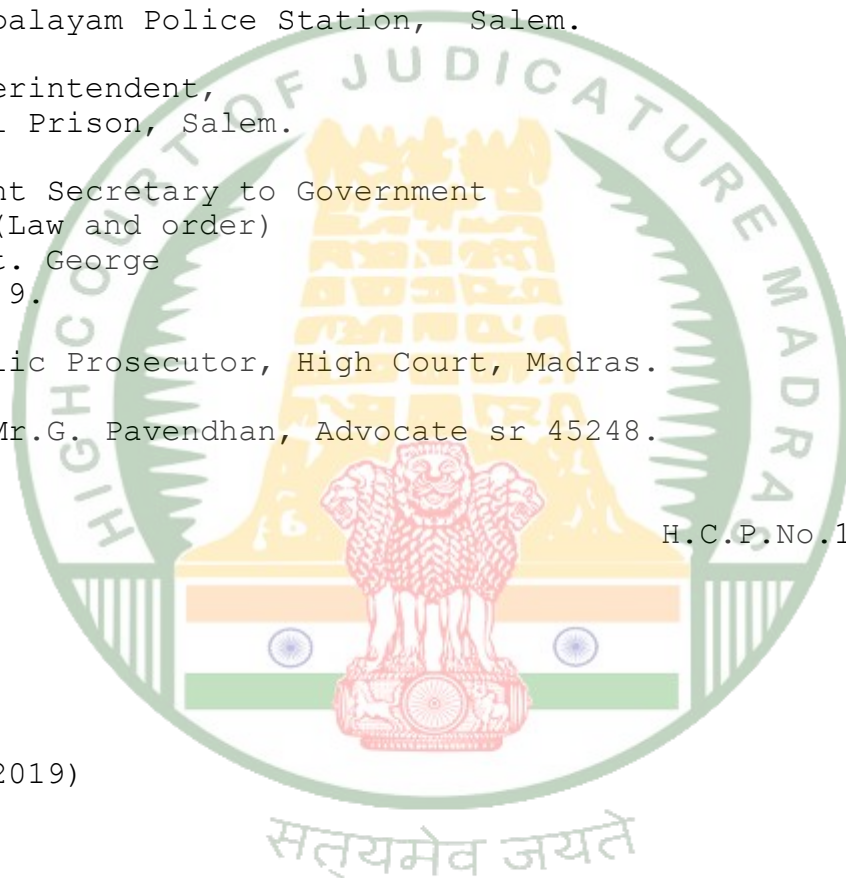
5.The Joint Secretary to Government
Public (Law and order)
Fort. St. George
Chennai 9.

6.The Public Prosecutor, High Court, Madras.

+1 CC to Mr.G. Pavendhan, Advocate sr 45248.

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RGN(CO)
SP(15/07/2019)



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