

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.06.2019

Coram

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

H.C.P. No. 344 of 2019

S.VaniPetitioner/Wife of the Detenu

-vs-

- 1.The State of Tamil Nadu
Rep. By the Secretary to Govt,
Home, Prohibition and Excise Department,
Fort St.George,Chennai - 600 009.
- 2.The Commissioner of Police,
Greater Chennai City,
Vepery, Chennai - 600 007. Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus directing the respondents to produce the husband of the petitioner, Saravanan alias Shanmugam, aged 25 years before this Hon'ble Court, now confined in the Central Prison, Puzhal, Chennai and set him at liberty and to call for the records pertaining to the Memo No.1144/BCDFGISSSV/2018 dated 18.12.2018 and set aside the same.

For Petitioner : Mr.C.K.M.Appaji

For Respondents : Mr.C.Iyyappa Raj
: Addl. Public
Prosecutor

ORDER

[Order of the Court was made by M.M.SUNDRESH, J.]

The petitioner is the wife of Saravanan @ Shanmugam, S/o.Manickam, aged 25 years, who is the detenu. The detenu has been detained by the second respondent by his order in

No.1144/BCDFGISSSV/2018 dated 18.12.2018, holding him to be a "Drug Offender", as contemplated under Section 2(e) 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 pointed out that though the detaining authority has expressed his awareness that the detenu is in remand in the ground case in Crime No.1021 of 2018 on the file of J11 Kannagi Nagar Police Station and he has not moved any bail application in the said case and the detenu has been granted bail in the third adverse case in Crime No.790/2018 on the file of Pallikonda Police Station, the details of the said bail application and the details of the second adverse case have not been furnished to the detenu in the booklet and there is nothing to show that such material was placed before the detaining authority at the time of clamping the order of detention and the subjective satisfaction expressed by the detaining authority is vitiated.

4. A perusal of the booklet would go to show that the details of the second adverse case and the details of the bail granted to the detenu in the third adverse case have not been enclosed in the booklet furnished to the detenu. Therefore, non-furnishing of the details in respect of the above adverse cases prevented the detenu from making effective representation. Thus, for the reasons stated herein-above, the impugned detention order cannot be sustained.

5. In the result, the Habeas Corpus Petition is allowed and the order of detention in No.1144/BCDFGISSSV/2018 dated 18.12.2018, passed by the second respondent is set aside. The detenu, namely, Saravanan @ Shanmugam, S/o.Manickam, aged 25 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar (CS-VII)

//True copy//

Sub Assistant Registrar

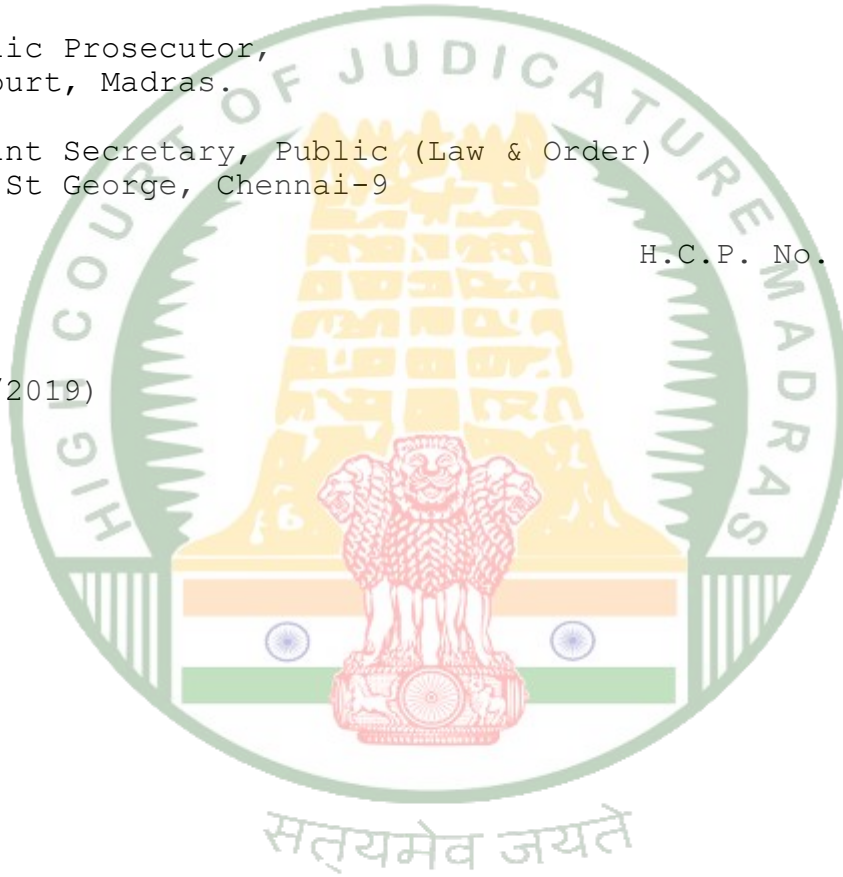
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To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Chennai - 600 009.
- 2.The Commissioner of Police,
Greater Chennai City,
Vepery, Chennai - 600 007.
- 3.The Superintendent,
Central Prison,Puzhal, Chennai.
- 4.The Public Prosecutor,
High Court, Madras.
5. The Joint Secretary, Public (Law & Order)
Fort St George, Chennai-9

H.C.P. No. 344 of 2019

CA(CO)
GMY(18/07/2019)



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