

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.375 OF 2019

Amaravathy

... Petitioner

-vs-

1. The State of Tamil Nadu
rep. by the Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 9
2. The District Magistrate and
District Collector,
Thiruvallur District, Thiruvallur.

... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus to call for the records in BCDFGISSSV No.01/2019 dated 04.01.2019 on the file of the second respondent and quash the same as illegal and thereby direct the respondents to produce the detenu namely R.Haribabu @ Surya, S/o. Ravi, aged about 31 years, before this Court, who is now detained in Central Prison, Puzhal, Chennai and set him at liberty.

For Petitioner : Mr.M.Rajinikanth

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

ORDER

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

The petitioner, who is the wife of the detenu viz., R.Haribabu @ Surya, challenges the order of detention dated 04.01.2019 passed by the second respondent under Section 2(f) of the Tamil Nadu Act 14 of 1982 branding the detenu as a Goonda.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.

3. Apart from other grounds, the main contention of the learned counsel for the petitioner is that the bail petition filed by the detenu in the ground case in Crime No.621 of 2018 was dismissed by the Principal District and Sessions Court, Thiruvallur in CrI.M.P.No.6769 of 2018 on 03.01.2019 and on the very next day i.e. on 04.01.2019 itself, the detention order came to be passed and the dismissal of the bail petition was also mentioned in the detention order. He further submits that thereafter, no bail petition was filed either by the petitioner or his relatives in the ground case and therefore, the subjective satisfaction arrived by the detaining authority is not proper.

4. On a careful scrutiny of the grounds of detention, it is seen that the detaining authority, taking into account the dismissal of the bail petition in the ground case by the Principal District and Sessions Court, Tiruvallur in CrI.M.P.No.6769 of 2018 on 03.01.2019, passed the order of detention on the very next day itself i.e. on 04.01.2019 stating that there is a compelling necessity to detain the detenu in order to prevent him from indulging in such further activities in future, which are prejudicial to the maintenance of public order. It is pertinent to note that when no bail petition has been filed by the detenu, it is not known as to how the detaining authority has arrived at the conclusion, in the absence of any supporting material thereof, which really shows non-application of mind on the part of detaining authority and hence, the impugned detention order cannot be sustained and the same is vitiated.

5. In the result, the Habeas Corpus Petition is allowed and the order of detention in BCDFGISSSV No.01/2019 dated 04.01.2019, passed by the second respondent is set aside. The detenu, namely, R.Haribabu @ Surya, S/o. Ravi, is directed to be released forthwith unless his detention is required in connection with any other case.

WEB COPY

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

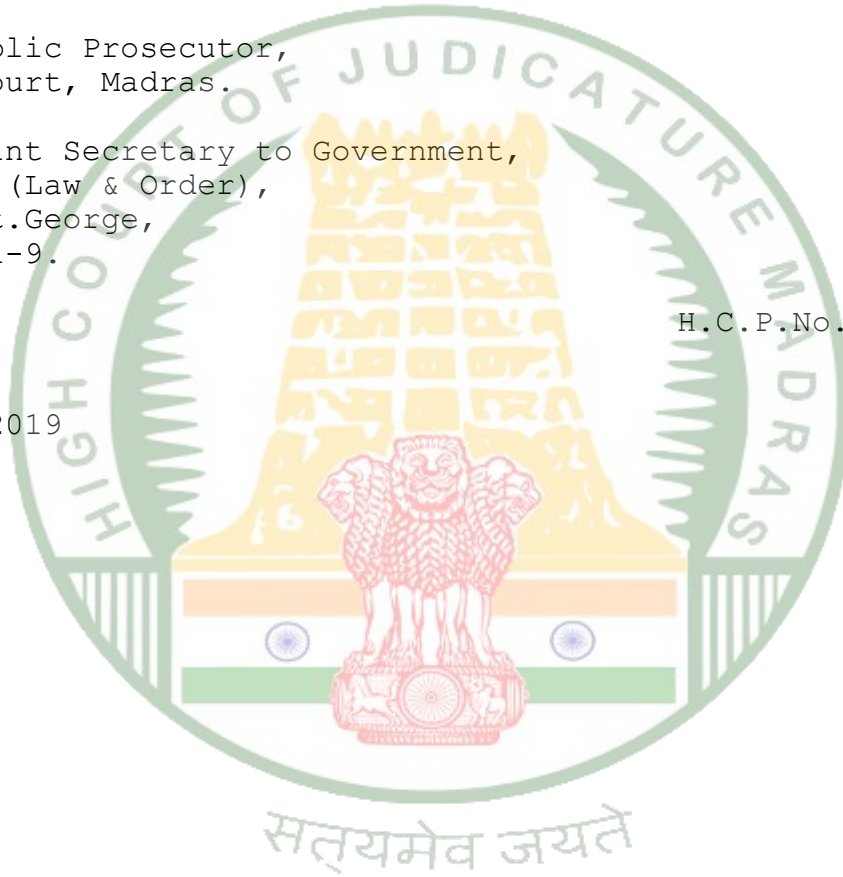
mmi/ssm

To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 9
2. The District Magistrate and
District Collector,
Thiruvallur District, Thiruvallur.
3. The Superintendent,
Central Prison, Puzhal, Chennai.
4. The Public Prosecutor,
High Court, Madras.
5. The Joint Secretary to Government,
Public (Law & Order),
Fort St.George,
Chennai-9.

H.C.P.No.375 of 2019

RSI (CO)
CS/25/07/2019



WEB COPY