

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2019

Coram

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

H.C.P. No. 405 of 2019

Viji

... Petitioner

-vs-

1.The Commissioner of Police,
Greater Chennai,
Office of the Commissioner of Police (Goondas Section)
Vepery, Chennai - 600 007.

2.The Secretary to Government,
Government of Tamil Nadu (Home)
Prohibition and Excise Department,
Fort St.George, Chennai - 600 009. ... Respondents

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 impugned order Memo No.1083/BCDFGISSSV/2018 dated 27.11.2018 on the file of the 1st respondent herein and set aside the same as illegal and direct the respondent to produce the detenu namely Viji, Son of Baskar, Hindu, aged about 33 years, now confined at Central Prison, Puzhal, Chennai, before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.C.Vinodh Kumar

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

ORDER

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

The petitioner, Viji, S/o. Baskar, aged 33 years, is the detenu. The detenu has been detained by the first respondent in proceedings No.1083/BCDFGISSSV/2018 dated 27.11.2018, holding 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.Learned counsel for the petitioner submits that in arriving at the conclusion of imminent possibility of the detenu being released on bail, the detaining authority has stated that in a similar case, bail was granted by the Sessions Judge, Chennai in Crl.M.P.No.19291 of 2018.

4.A perusal of the impugned order informs that the accused in that case had no previous case against his name, whereas in the instant case, the detenu has two previous cases. Therefore, the detaining authority had erred in treating the case relied upon and the case of the detenu as similar in nature. As the order of the detaining authority reflects non application of mind, the order under challenge is liable to be set aside.

5.In the result, the Habeas Corpus Petition is allowed and the order of detention in proceedings No.1083/BCDFGISSSV/2018 dated 27.11.2018, passed by the first respondent is set aside. The detenu, Viji, S/o. Baskar, aged 33 years, is directed to be released forthwith unless his detention is required in connection with any other case.

सत्यमेव जयते

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Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

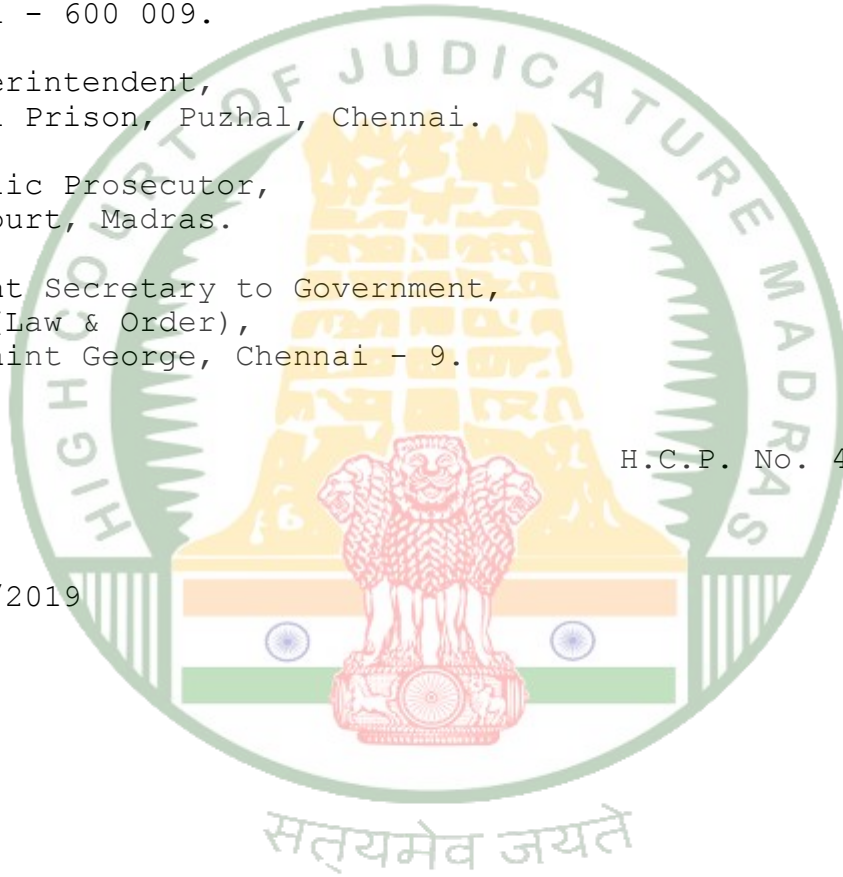
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To

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

H.C.P. No. 405 of 2019

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