

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.07.2019

Coram

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

H.C.P. No.701 of 2019

S.Mahalakshmi

... Petitioner

-vs-

1. State of Tamil Nadu
Rep. By its Secretary,
Prohibition and Excise Department,
Fort St.George, Chennai - 600 009
 2. The District Collector and District Magistrate,
Coimbatore, Coimbatore District.
 3. The Inspector of Police,
Periyanaickenpalayam Police Station,
Coimbatore, Coimbatore District
- ... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus calling for the records of the detention dated 28.03.2019 in detention order no. Cr.M.P.No.07/G/2019/E1 on the file of the 2nd respondent herein and quash the same and direct the respondents herein to produce the body of the detenu Suresh Kannan @ Kannan, S/o. Subbaiya Thevar, Hindu, aged about 32 years who is confined in Central Prison, Coimbatore before this Court and set him at liberty.

For Petitioner : Mr.R.Thamarai Selvan

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 the detenu, Suresh Kannan @ Kannan, S/o. Subbaiya Thevar, Hindu, aged about 32 years. The detenu has been detained by the second respondent by his order in Cr.M.P.No.07/G/2019/E1, dated 28.03.2019, 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.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.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 ground case in Crime No.479 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.

5. In the result, the Habeas Corpus Petition is allowed and the order of detention in Cr.M.P.No.07/G/2019/E1, dated 28.03.2019 passed by the second respondent is set aside. The detenu, Suresh Kannan @ Kannan, S/o. Subbaiya Thevar, Hindu, aged about 32 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

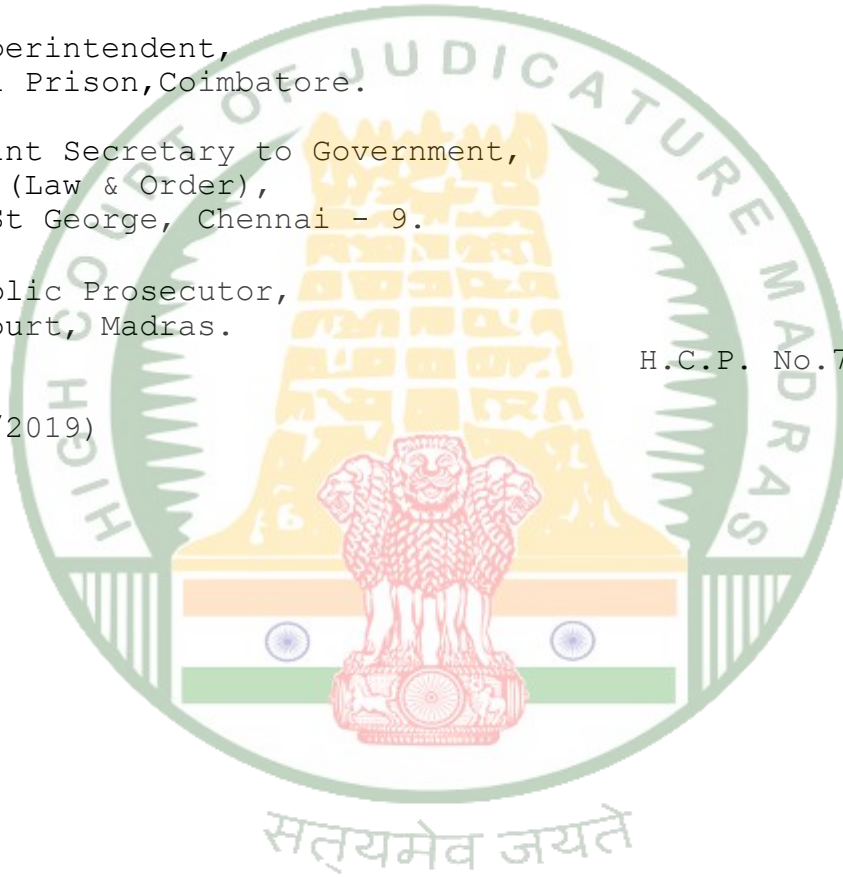
raa/ssm

To:

1. The Secretary,
Prohibition and Excise Department,
Fort St.George, Chennai - 600 009
2. The District Collector and District Magistrate,
Coimbatore, Coimbatore District.
3. The Inspector of Police,
Periyanaickenpalayam Police Station,
Coimbatore, Coimbatore District
4. The Superintendent,
Central Prison, Coimbatore.
5. The Joint Secretary to Government,
Public (Law & Order),
Fort. St George, Chennai - 9.
6. The Public Prosecutor,
High Court, Madras.

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SV(CO)
SSM(21/08/2019)



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