

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.07.2019

Coram

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

H.C.P.No.855 of 2019

S.Alamelu

..

Petitioner/Wife of the detenu

Vs

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

2.The Commissioner of Police,
Greater Chennai City,
Vepery, Chennai - 7.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for a writ of habeas corpus, to call for the records pertaining to the order in Memo No.150/BCDFGISSSV/2019 dated 25.03.2019 on the file of the second respondent herein and set aside the same and direct the respondents herein to produce the petitioner's husband Security Sathish @ Sathish, Son of Muthusamy, aged 35 years, now confined in the Central Prison, Puzhal, Chennai before this Court and set him at liberty.

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

For Respondents.. Mr.R.Prathap Kumar,
Addl. Public Prosecutor

ORDER

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

The petitioner is the Wife of Security Sathish @ Sathish, Son of Muthusamy, aged 35 years, who is the detenu. The detenu has been detained by the second respondent by his order in Memo

No.150/BCDFGISSSV/2019 dated 25.03.2019, 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. Though the learned counsel for the petitioner raised several grounds to assail the impugned order of detention, he mainly focused his argument on the ground that though the detenu has filed a bail application in respect of the ground case in Crime No.148 of 2019 and the same is pending in Crl.M.P.No.407 of 2019 on the file of Special Judge, EC & NDPS Court, Chennai, the sponsoring authority, while recommending the detention of the detenu has wrongly stated that bail application is pending in Crl.M.P.No.1506 of 2019. This clearly shows non-application of mind on the part of the detaining authority and such variation would vitiate the subjective satisfaction itself and hence the impugned order of detention is liable to be quashed.

4. On a perusal of the booklet, it is clear that the sponsoring authority, while recommending the detention of the detenu, has wrongly stated that the bail application in respect of the ground case in Crime No.148 of 2019 is pending in Crl.M.P.No.1506 of 2019 instead of Crl.M.P.No.407 of 2019. As rightly contended by the learned counsel for the petitioner, the said variation would vitiate the subjective satisfaction itself and on this ground alone, the order of detention is vitiated and liable to be set aside.

5. In the result, the Habeas Corpus Petition is allowed and the order of detention in Memo No.150/BCDFGISSSV/2019 dated 25.03.2019 passed by the second respondent is set aside. The detenu, namely, Security Sathish @ Sathish, Son of Muthusamy, aged 35 years, is directed to be released forthwith unless his detention is required in connection with any other case.

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Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

mmi/ssm

To

1.The Secretary to Government,
Prohibition and Excise Department,
Fort St. George, Chennai - 9.

2.The Commissioner of Police,
Greater Chennai City,
Vepery, Chennai - 7.

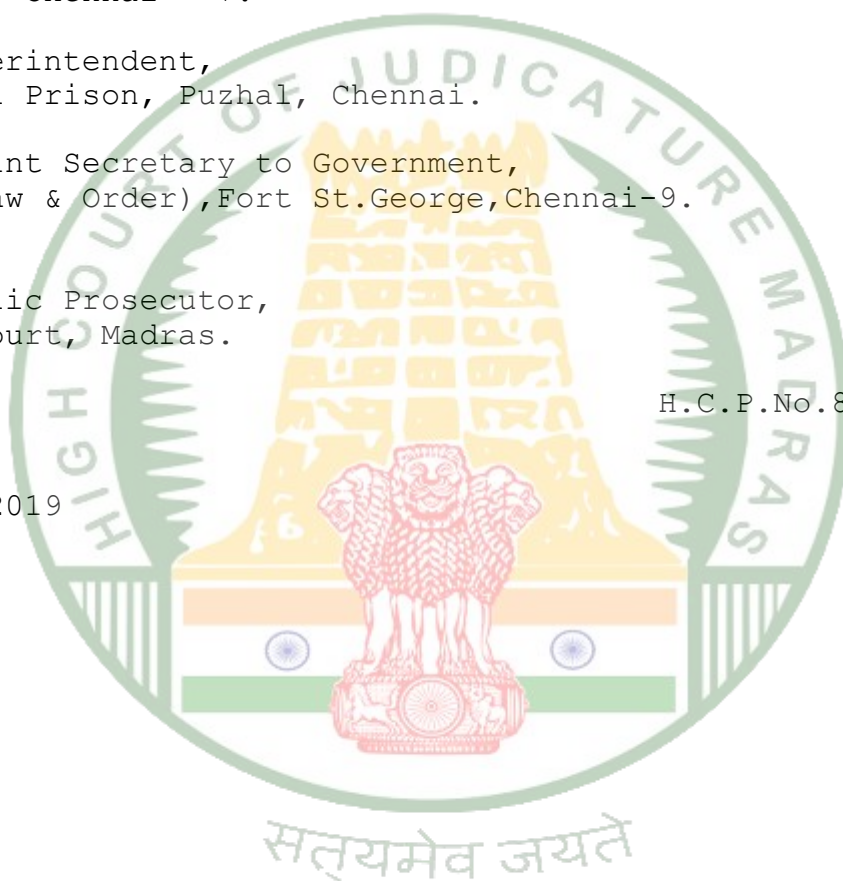
3.The Superintendent,
Central Prison, Puzhal, Chennai.

4. The Joint Secretary to Government,
Public (Law & Order), Fort St.George, Chennai-9.

5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.855 of 2019

mg(co)
nr 30/07/2019



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