

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.08.2019

Coram

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

H.C.P. No. 962 of 2019
and CrI.M.P.No.8792 of 2019

Gayathri ... Petitioner

-vs-

- 1.The State of Tamil Nadu
Rep. By its Secretary to Government,
Department of Prohibition and Excise (Home),
Fort St.George, Chennai - 600 009
- 2.The Commissioner of Police,
Chennai City Police, Greater Chennai,
Commissioner Office,
Vepery, Chennai ... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus to call for the records in No.209/BCDFGISSSV/2019 dated 04.05.2019 on the file of the second respondent herein and set aside the same as illegal and produce the detenu Muruganandam @ Muruga, son of Rajasekaran, aged about 41 years, who is confined at Central Prison, Puzhal, Chennai, before this Court and set him at liberty.

For Petitioner : Mr.M.Prabaharan

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, Muruganandam @ Muruga, son of Rajasekaran, aged about 41 years. The detenu has been detained by the second respondent by his order in

No.209/BCDFGISSSV/2019 dated 04.05.2019, 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 by the learned counsel for the petitioner to attack the impugned order of detention, he mainly focused his argument on the ground that though the detaining authority has observed that the bail petition filed by the detenu in the ground case has been dismissed, he inferred that the detenu may come out on bail in the ground case as his relatives are taking steps to take him on bail. There is nothing to show that such material was placed before the detaining authority at the time of clamping the order of detention and therefore, subjective satisfaction expressed by the detaining authority is vitiated.

4.The detaining authority, in para 4 of the grounds of detention, while considering the real possibility of the detenu coming out on bail in the ground case and proceeded further to observe that the bail petition filed by the detenu in the ground case came to be dismissed. The detaining authority has not mentioned whether another bail petition has been moved by the detenu or his relatives in respect of the ground case. Therefore, there is no material to show that another bail petition has been moved by the detenu or his relatives in the ground case. Therefore, the subjective satisfaction arrived by the detaining authority is not supported by material and it vitiates the order of detention. 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 No.209/BCDFGISSSV/2019 dated 04.05.2019, passed by the second respondent is set aside. The detenu, namely, Muruganandam @ Muruga, son of Rajasekaran, aged about 41 years, is directed to be released forthwith unless his detention is required in connection with any other case. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar (CS-I)

True Copy

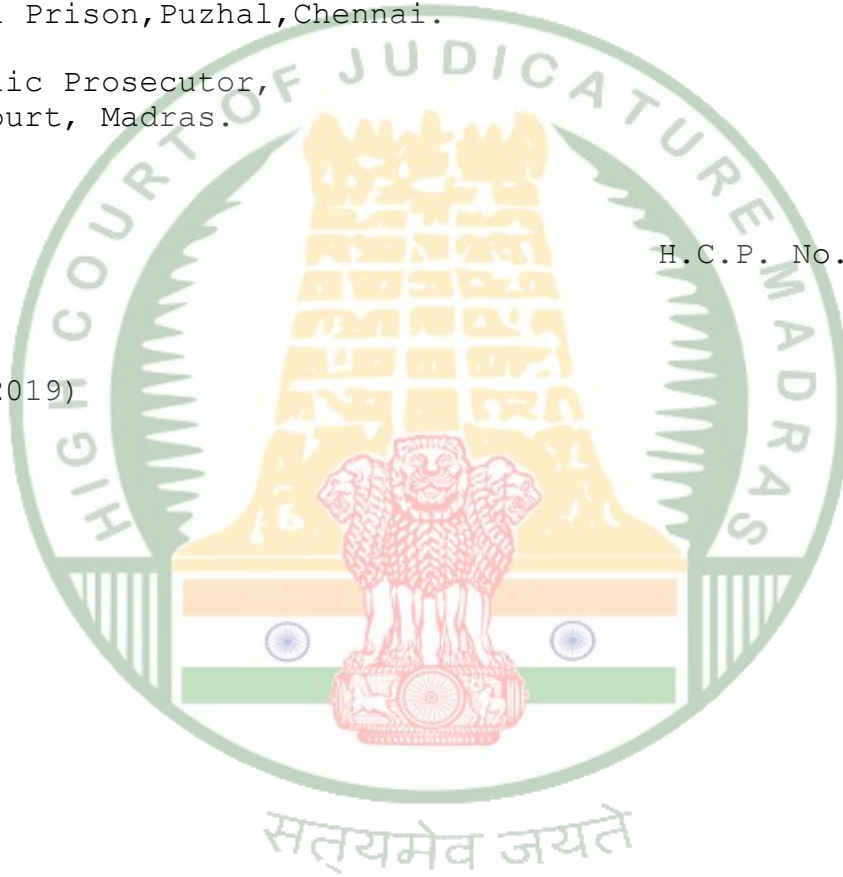
Sub-Assistant Registrar

To

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

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VGI (CO)
SP(17/09/2019)



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