

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.09.2019

CORAM

THE HON'BLE MR. JUSTICE M.M.SUNDRESH
AND
THE HON'BLE MR. JUSTICE RMT. TEEKAA RAMAN

H.C.P. No. 1181 of 2019

Murugan

... Petitioner

-vs-

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

2.The Commissioner of Police/Detaining Authority,
Huzur Road,
Coimbatore City,
Coimbatore - 18.

... 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 petitioner's son detention under Tamil Nadu Act 14 of 1982 vide detention order, dated 11.06.2019 on the file of the second respondent herein made in proceedings Memo C.No.44/G/IS/2019, quash the same as illegal and consequently direct the respondents herein to produce the petitioner's son namely M.Sathish Kumar @ Vellai Sathish, S/o. Murugan, aged 23 years, before this Court and set the petitioner's son at liberty from detention, now the petitioner's son detained at Central Prison, Coimbatore.

For Petitioner : Mr.W.Camyles Gandhi

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 father of the detenu M.Sathish Kumar @ Vellai Sathish, S/o. Murugan, aged 23 years. The detenu has been detained by the second respondent by his order in

C.No.44/G/IS/2019 dated 11.06.2019, holding him 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 real 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 real possibility of the detenu being enlarged on bail and the likelihood of the same is prejudicial to the maintenance of public order, 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 detenu are taking steps to take him out on bail by filing bail application in the ground case 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 C.No.44/G/IS/2019 dated 11.06.2019, passed by the second respondent is set aside. The detenu, namely, M.Sathish Kumar @ Vellai Sathish, S/o. Murugan, aged 23 years, is directed to be released forthwith unless his detention is required in connection with any other case.

mmi/ssm

Sd/-

Assistant Registrar

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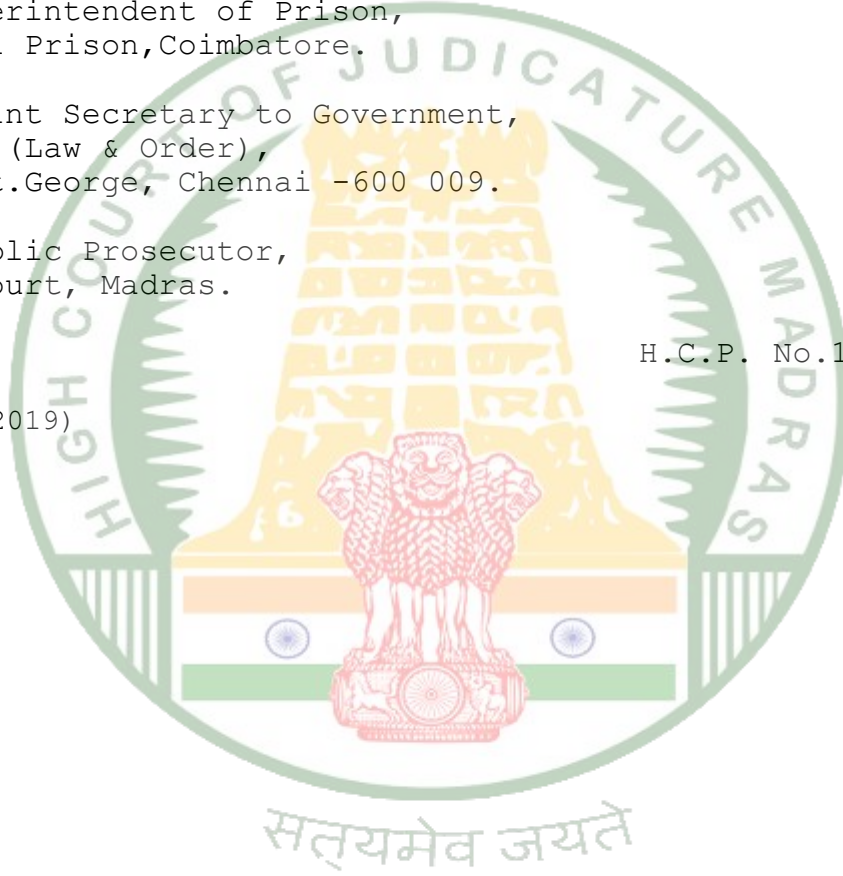
Sub Assistant Registrar

To

- 1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat,
Fort St.George,Chennai - 9.
- 2.The Commissioner of Police/Detaining Authority,
Huzur Road,
Coimbatore City, Coimbatore - 18.
- 3.The Superintendent of Prison,
Central Prison,Coimbatore.
4. The Joint Secretary to Government,
Public (Law & Order),
Fort St.George, Chennai -600 009.
5. The Public Prosecutor,
High Court, Madras.

H.C.P. No.1181 of 2019

Kak(01/11/2019)



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