

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.08.2019

Coram

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

H.C.P. No. 1231 of 2019

Maarakka

... Petitioner

-vs-

1. The State of Tamil Nadu,
Rep. by its Secretary to Government,
Home, Prohibition and Excise(XVI) Department,
Fort St.George, Secretariat,
Chennai - 600 009.

2.The District Collector and District Magistrate of
Krishnagiri,
Krishnagiri District.

... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus calling for the records in connection with the order of detention passed by the second respondent dated 18.02.2019 in his office Ref S.C.No.02/2019 against the petitioner's son by name Kunnaiya, S/o. Boothattiyappa, aged about 22 years, now confined at Central Prison, Salem, Salem District and set aside the same and direct the respondents to produce the above said detenu before this Court and set him at liberty.

For Petitioner : Mr.E.Kannadasan

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 mother of the detenu - Kunnaiya, S/o. Boothattiyappa, aged about 22 years. The detenu has been detained by the second respondent by his order in S.C.No.02/2019

dated 18.02.2019, 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 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 detenu has not filed any bail petition in the ground case, he inferred that the relatives of the detenu are taking steps to take him out 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 case in which he was on remand, has referred to the remand of the detenu in the ground case and proceeded further to observe that the detenu has not filed any bail petition in the ground case but his relatives are taking steps to take him out on bail. But there is no material to show that any bail petition has been moved by the relatives of the detenu in the ground case. Therefore, the subjective satisfaction arrived by the detaining authority is not supported by any 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 in S.C.No.02/2019 dated 18.02.2019, passed by the second respondent is set aside. The detenu, Kunnaiya, S/o. Boothattiyappa, aged about 22 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

//True Copy//

Sub Assistant Registrar

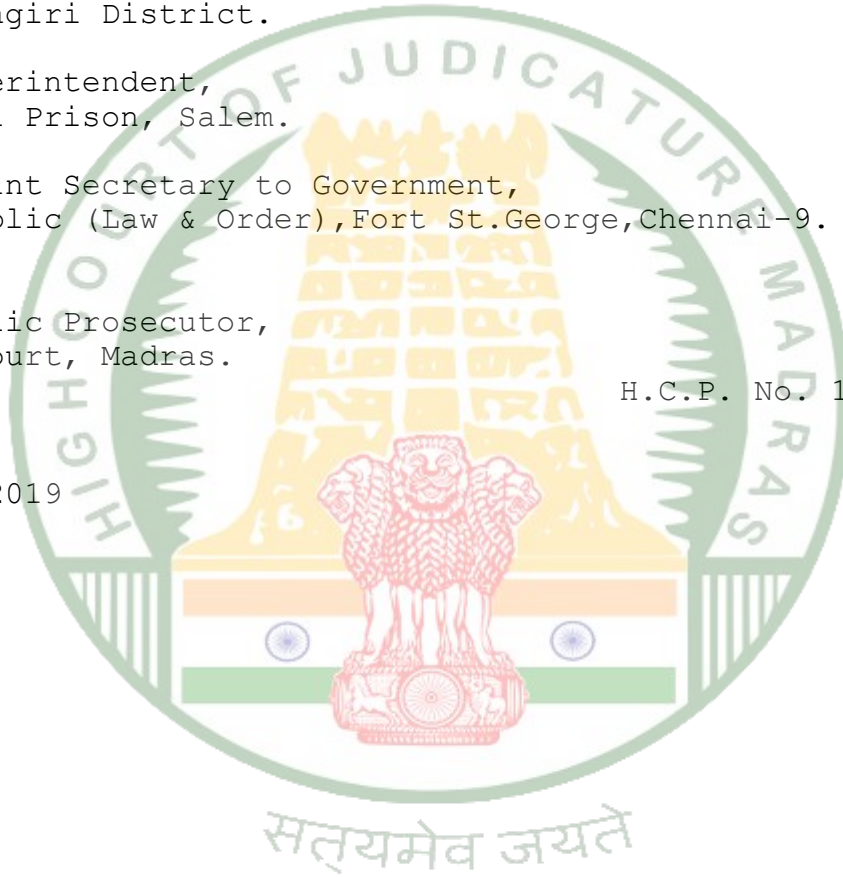
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To

- 1.The Secretary,
Home, Prohibition and Excise(XVI) Department,
Fort St.George, Secretariat,
Chennai - 600 009.
- 2.The District Collector and District Magistrate of
Krishnagiri,
Krishnagiri District.
- 3.The Superintendent,
Central Prison, Salem.
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. 1231 of 2019

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