

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2019

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice RMT. TEEKAA RAMAN

H.C.P. No.1354 of 2019

Bhavani

..Petitioner/Wife of the Detenue

-vs-

1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009

2.The District Collector & District Magistrate,
Vellore District,
Vellore - 9.

... 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 12.06.2019 in C-3D.O.No.55/2019 against the petitioner's husband Parthiban @Jagan, male, aged 31 years, S/o. Aaron who is confined at Central Prison, Vellore and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.D.Balaji

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 the detenu Parthiban @Jagan, S/o. Aaron, male, aged about 31 years. The detenu has been detained by the second respondent by his order in

C3/D.O.No.55/2019, dated 12.06.2019, 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 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 imminent possibility of the detenu being enlarged on bail and the likelihood of the same is prejudicial to the public order and peace, 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 there is most likely of the detenu coming out on bail by filing bail application 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 C3/D.O.No.55/2019 dated 12.06.2019, passed by the second respondent is set aside. The detenu, namely, Parthiban @Jagan, S/o. Aaron, male, aged about 31 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar

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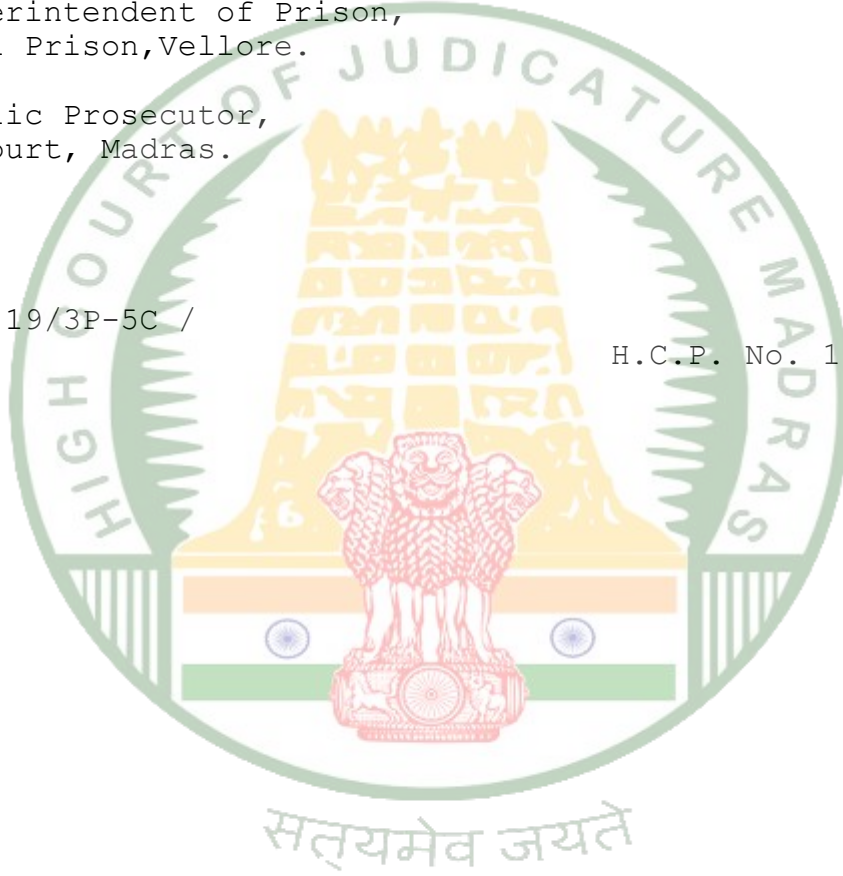
Sub Assistant Registrar

To

- 1.The Secretary,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600 009
- 2.The District Collector & District Magistrate,
Vellore District,
Vellore - 9.
- 3.The Superintendent of Prison,
Central Prison,Vellore.
- 4.The Public Prosecutor,
High Court, Madras.

AKM/18.11.19/3P-5C /

H.C.P. No. 1354 of 2019



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