

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.09.2019

Coram

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

H.C.P.No.1459 of 2019

Krishnaveni .. Petitioner/Wife of the Detenu

Vs

1.State of Tamil Nadu
rep. by The Secretary,
Home, Prohibition and Excise
Department, Fort St. George,
Chennai - 600 009.

2.The Commissioner of Police,
Greater Chennai, 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 relating to the detention order in Memo No.343/BCDFGISSSV/2019 dated 20.06.2019 passed by the second respondent under the Tamil Nadu Act 14 of 1982 and set aside the same and direct the respondent to produce the petitioner's husband Ramki, S/o.Rajendran, aged about 30 years, the detenu, now confined in Central Prison, Puzhal, Chennai before this Court and set the petitioner's husband Ramki, S/o.Rajendran, aged about 30 years, the detenu herein at liberty.

For Petitioner .. Mr.M.Kaveriselvam

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 and she has come up with this habeas corpus petition, challenging the detention order passed by the second respondent, vide Memo No.343/BCDFGISSSV/2019 dated 20.06.2019, branding the detenu as a "Goonda" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders,

Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 [Tamil Nadu Act 14 of 1982].

2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents and we have also perused the records carefully.

3. Though the order of detention is challenged on various grounds, the main submission of the learned counsel for the petitioner is that the detaining authority has expressed subjective satisfaction with regard to the detenu coming out on bail in the cases in which he was on remand, based on the bail order passed in a similar case in Crime No.369 of 2018 in Crl.M.P.No.3177 of 2018; whereas the copy of the bail order in the similar case in Crl.M.P.No.3177 of 2018 was not furnished to the detenu in the booklet and there is nothing to show that such bail order was placed before the detaining authority while arriving at a subjective satisfaction and hence the subjective satisfaction expressed is not based on cogent material and it is vitiated.

4. On a perusal of the grounds of detention, it is seen that the subjective satisfaction with regard to the detenu coming out on bail in the ground case is based on the bail order in the similar case in Crime No.369 of 2018 in Crl.M.P.No.3177 of 2018. The copy of the bail order in Crl.M.P.No.3177 of 2018 is not found in the booklet. There is nothing on record to show that the said bail order was placed before the detaining authority while clamping the order of detention. In such circumstances, the subjective satisfaction expressed is not based on cogent material 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.343/BCDFGISSSV/2019 dated 20.06.2019 passed by the second respondent is set aside. The detenu, namely, Ramki, S/o.Rajendran, aged about 30 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

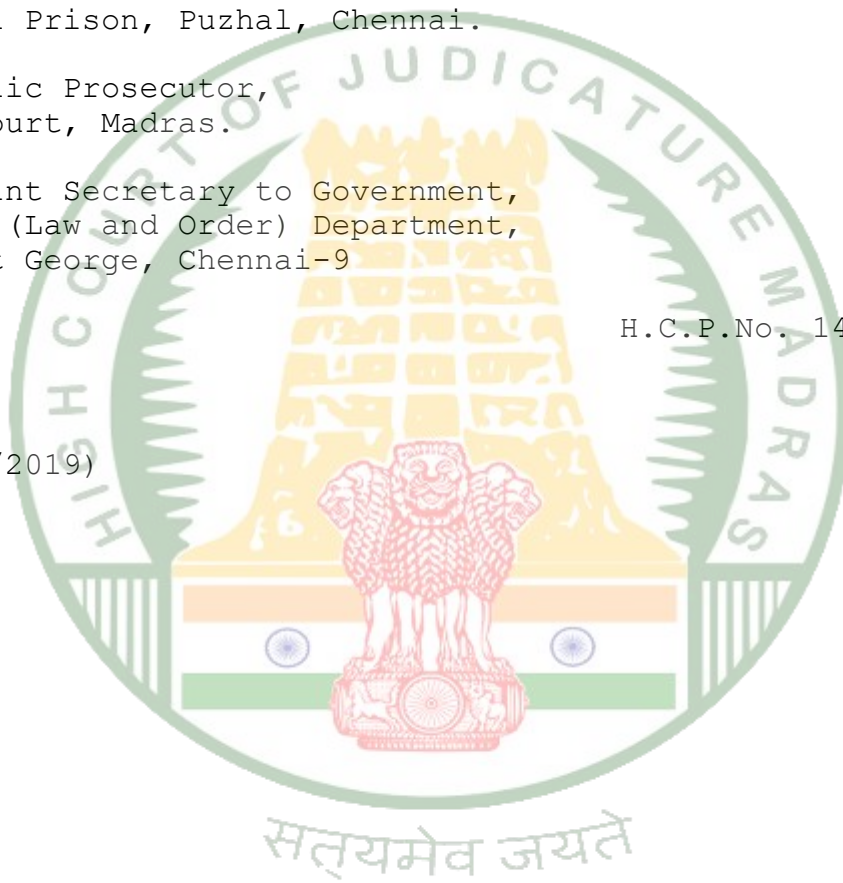
mni/ssm

To

- 1.The Secretary to Government,
Home, Prohibition and Excise
Department, Fort St. George,
Chennai - 600 009.
- 2.The Commissioner of Police,
Greater Chennai, Vepery, Chennai - 7.
- 3.The Superintendent,
Central Prison, Puzhal, Chennai.
- 4.The Public Prosecutor,
High Court, Madras.
5. The Joint Secretary to Government,
Public (Law and Order) Department,
Fort St George, Chennai-9

H.C.P.No. 1459 of 2019

MR (CO)
GMY (15/11/2019)



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