

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2019

Coram

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

H.C.P. No. 1895 of 2019

Alan Michael Petitioner/father of the
detenue

-vs-

1.The Secretary to Government,
Home,Prohibition and Excise Department,
Fort St.George, Chennai - 09.

2.The Commissioner of Police,
Greater Chennai,
Veppery, Chennai. 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 14.08.2019 in BCDFGISSSV No.493 of 2019 against the petitioner's son Paul Praveen, male, aged about 26 years, son of Alan Micheal, who is confined at Central Prison, Puzhal, Chennai and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.M.Illiyas

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, Paul Praveen, son of Alan Micheal, male, aged about 26 years. The detenu has been detained by the second respondent by his order in BCDFGISSSV No.493 of 2019 dated 14.08.2019, 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. The main argument of the learned counsel appearing for the petitioner is that the case relied on by the detaining authority is not similar in nature and the offence in ground case are totally different. Therefore, the likelihood of the detenu coming out on bail is not there and the subjective satisfaction arrived by the detaining authority is not proper.

4. For appreciating the contentions raised by the learned counsel for the petitioner, the relevant averments in para 4 of the grounds of detention are extracted below:

"4. I am aware that Thiru. Paul Praveen is in remand in P-2 Otteri Police Station Crime No.467/2019. He has not moved any bail application for P2 Otteri Police Station Crime No.467/2019. The sponsoring authority has stated that the relatives of Thiru Paul Praveen are taking action to take him out on bail in P2 Otteri Police Station Crime No.467/2019 by filing bail application before the appropriate court. Further in a similar case registered at F-1 Chintadripet PS Cr.No.809/2014 u/s 147,148,341, 307 IPC @ 302 IPC bail was granted by the Principal Sessions Judge at Chennai in Crl.M.P.No.17395 of 2014. Hence, I infer that there is real possibility of his coming out on bail in P2 Otteri Police Station Cr.No.467/2019 by filing bail application before the appropriate court, since in similar cases bail is granted by the court after a lapse of time. If he comes out on bail, he will indulge in further activities which will be prejudicial to the maintenance of public order."

5. From a perusal of the detention order, it is seen that the detaining authority has taken into consideration similar case registered at F-1 Chintadripet PS Cr.No.809/2014 u/s 147,148,341, 307 IPC @ 302 IPC bail was granted by the Principal Sessions Judge at Chennai in Crl.M.P.No.17395 of 2014 and therefore, there is a real possibility of the detenu coming out on bail in the ground case in Crime Nos.467/2019 and indulge in such activities prejudicial to the maintenance of public order. The similar case relied on by the authority was registered for the offences u/s 147,148,341, 307 IPC @ 302 IPC whereas the ground case were registered for the offence under Section 341 and 307 IPC. Therefore, there is non-application of mind on the part of the detaining authority in not considering the similar case for arriving at subjective satisfaction. Hence the impugned order of detention is liable to be set aside.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in BCDFGISSSV No.493 of 2019 dated 14.08.2019 passed by the second respondent is set aside. The detenu, namely, Paul Praveen, son of Alan Micheal, male, aged about 26 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

mmi/ssm

To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 09.
- 2.The Commissioner of Police,
Greater Chennai,
Veppery, Chennai.

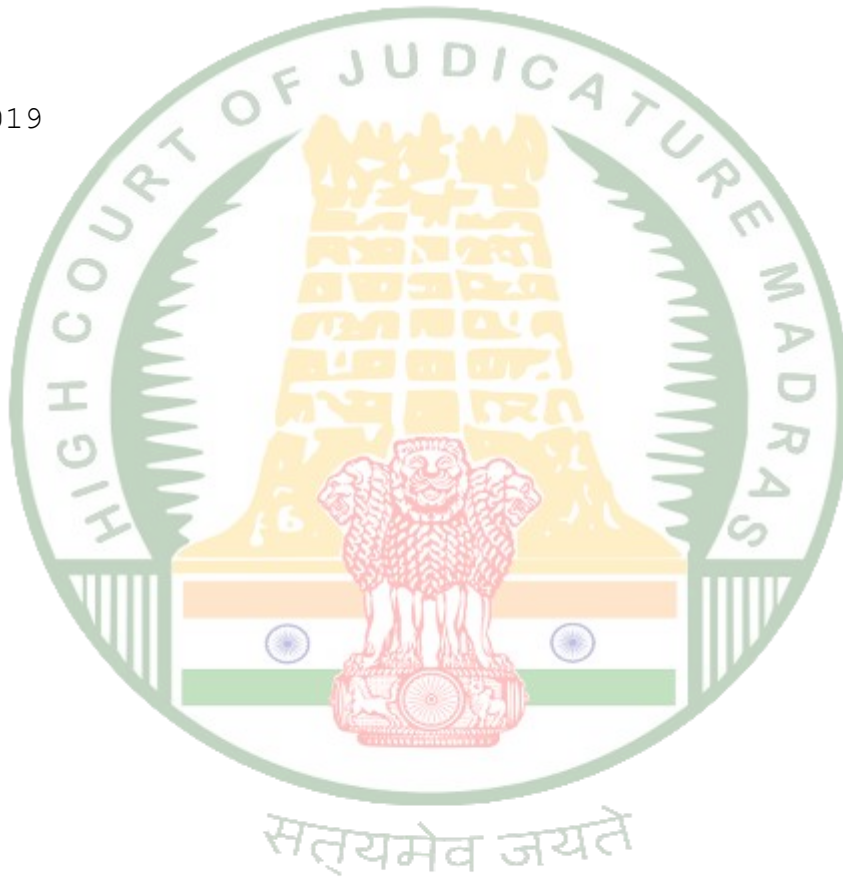
3.The Superintendent,
Central Prison,Puzhal,Chennai.

4.The Joint Secretary to Government
Public Law & Order Department
fort st.George chennai-09.

5.The Public Prosecutor,
High Court, Madras.

H.C.P. No. 1895 of 2019

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