

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.12.2019

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

H.C.P.No.2149 of 2019

Amutha
W/o.Gemini

... Petitioner

Vs

1. The State of Tamil Nadu,
represented by
Secretary to Government,
Prohibition & Excise Department,
Fort St.George, Chennai - 600009.

2. The Commissioner of Police,
Greater Chennai,
Office of the Commissioner of Police,
(Goondas Section),
Vepery, Chennai - 600007.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus calling for the records relating to the detention order dated 29.07.2019 passed by the second respondent in BCDFGISSSV No.447 of 2019 and quash the same and direct the respondents herein to produce the petitioner's son Karthick S/o.Gemini, aged 28 years, No.27/39, Gangaianman Koil Street, Virugambakkam, Chennai - 600092, who is presently undergoing detention in the Central Prison, Puzhal, before this Court and set him at liberty forthwith.

For Petitioner : Mr.M.Udayavani

For Respondents: Mr.R.Prathap Kumar

Additional Public Prosecutor

O R D E R

[Order of this Court was made by R.SUBBIAH, J]

Petitioner is the mother of the detenu viz., Karthick S/o.Gemini, aged 28 years, who has been branded as a 'Goonda' under the Tamil Nadu Act 14 of 1982 and detained under order of second respondent passed in BCDFGISSSV No.447 of 2019 dated 29.07.2019.

2. The detenu came to adverse notice in the following cases:

Sl.No.	Police Station & Crime No.	Section of Law
1.	R-9 Valasaravakkam Police Station, Crime No.354/2019	454 and 380 IPC
2.	R-9 Valasaravakkam Police Station, Crime No.362/2019	454 and 380 IPC

The alleged ground case has been registered against the detenu in Crime No.363 of 2019 on the file of R-9 Valasaravakkam Police Station for offences u/s.341, 294(b), 336, 397, 427 and 506(ii) IPC. Aggrieved by the order of detention, the present writ petition has been filed.

3. Amidst several grounds raised, learned counsel for petitioner submits that the detaining authority noticed that the bail application filed by the detenu in the ground case in CrI.M.P.No.3592 of 2019 is pending and had informed that the relatives of the detenu were taking efforts to move bail application to take him out on bail in adverse cases and therefore, there was a real possibility of his coming out on bail and if he comes out on bail, he will indulge in further activities which will be prejudicial to the maintenance of public order. Though the detaining authority has informed of an effort by the relatives to move bail petition for the release of the detenu, there is no material to support such contention.

4. We have heard learned Additional Public Prosecutor on the above submissions and also perused the records.

5. We find that there absolutely is no material which would disclose the likelihood of the relatives of the detenu moving bail petition on his behalf in respect of the adverse cases. Therefore, the non-application of mind and erroneous subjective satisfaction arrived at by the detaining authority is apparent.

Accordingly, the Habeas Corpus Petition is allowed and the detention order passed by the second respondent against the detenu viz., Karthick S/o.Gemini, in BCDFGISSSV No.447 of 2019 dated 29.07.2019, is quashed. The above named detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

-s/d-

Assistant Registrar(CS-IV)

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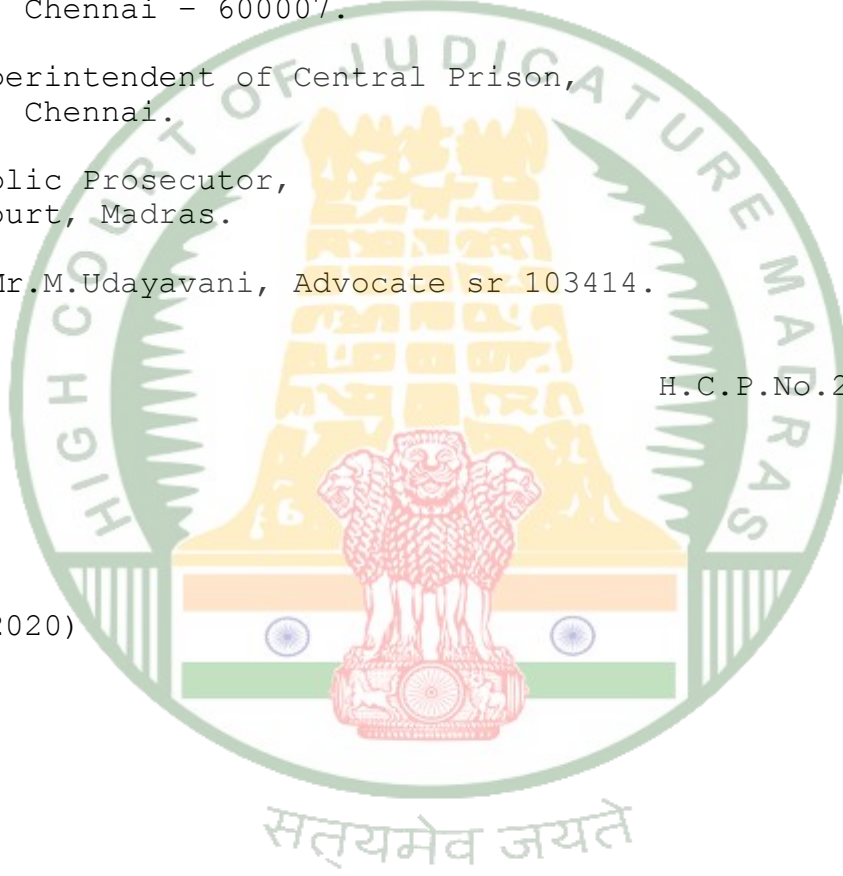
Sub-Assistant Registrar

To

1. The Secretary to Government,
Prohibition & Excise Department,
Fort St.George, Chennai - 600009.
 2. The Commissioner of Police,
Greater Chennai,
Office of the Commissioner of Police,
(Goondas Section),
Vepery, Chennai - 600007.
 3. The Superintendent of Central Prison,
Puzhal, Chennai.
 4. The Public Prosecutor,
High Court, Madras.
- +1 CC to Mr.M.Udayavani, Advocate sr 103414.

H.C.P.No.2149 of 2019

SSI (CO)
SP(02/03/2020)



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