

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 04.01.2019

CORAM:
THE HONOURABLE Mr.JUSTICE C.T.SELVAM
and
THE HONOURABLE Mrs.JUSTICE S.RAMATHILAGAM

H.C.P. No.2329 of 2018

Saroja

... Petitioner

-Vs-

1.The State Represented by,
The Commissioner of Police,
Greater Chennai, Chennai District,
Chennai.

2.The Secretary to Government,
Government of Tamilnadu,
Home, Prohibition and Excise IX,
Secretariat, St.George Fort,
Chennai - 600 009.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the records of the first respondent in T.P.D.A : 305 dated 26.08.2018 (Detention Order No.752, BCDFGISSSV/2018, dated 25.08.2018) setting aside the order of detention passed therein dated 25.08.2018 and directing the respondent to produce the detenu by namely, Aravindakumar @ Aravind, Son of Anbuneedhi before this Hon'ble Court, now detained in Central Prison, Puzhal at Chennai, and setting him at liberty.

For Petitioner : Mr.T.Padmanabhan

For Respondents: Mr.R.Prathap Kumar
Additional Public Prosecutor

ORDER

[Order of the Court was made by C.T.SELVAM, J.]

The petitioner, who is the grantmother of the detenu, namely, Aravindakumar @ Aravind, Son of Anbuneedhi, aged 23 years, challenges the impugned order of detention, dated 25.08.2018 in No.752/BCDFGISSSV/2018 detaining her grandson as "GOONDA", as contemplated under Section 2(f) of the Tamil Nadu Prevention of dangerous activities of Boot leggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders,

Sand Offenders, Slum-grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14/1982).

2. The ground case has been registered against the detenu in Crime No.671/2018 on the file of the Inspector of Police, K-4 Anna Nagar Police Station for offences u/s. 147, 148, 149, 341 & 302 IPC. The detention order has been passed by first respondent in No.752/BCDFGISSSV/2018 on 25.08.2018.

3. We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondents. We have also perused the records produced by the Detaining Authority.

4. Though several grounds have been raised in the Habeas Corpus Petition, the learned counsel appearing for the petitioner, confines his argument only in respect of non-application of mind on the part of the detaining authority in passing the order of detention.

5. The Grounds of Detention would reveal that a ground case was registered against him in Cr.No.671/2018 for the offences u/s. 147, 148, 149, 341 & 302 IPC. Admittedly, the detenu has not moved any bail application in the ground case. Therefore, the probability of release of the detenu imminently does not arise. Hence, we are inclined to set aside the detention order. Though the detaining authority has made reliance on similar case, in which an accused was granted bail, the facts involved in those cases are different. The principle of similarity cannot be applied mechanically. Normally, bails are granted based on the facts and circumstances of each case. Therefore, similar case plea, cannot be taken into consideration. Hence, there is no material to substantiate that there is real possibility of the detenu coming out on bail and the said order was passed without application of mind.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in No.752/BCDFGISSSV/2018 dated 25.08.2018, passed by the first respondent is set aside. The detenu, namely, Aravindakumar @ Aravind, Son of Anbuneedhi, aged about 23 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Deputy Registrar

//True Copy//

Sub Assistant Registrar

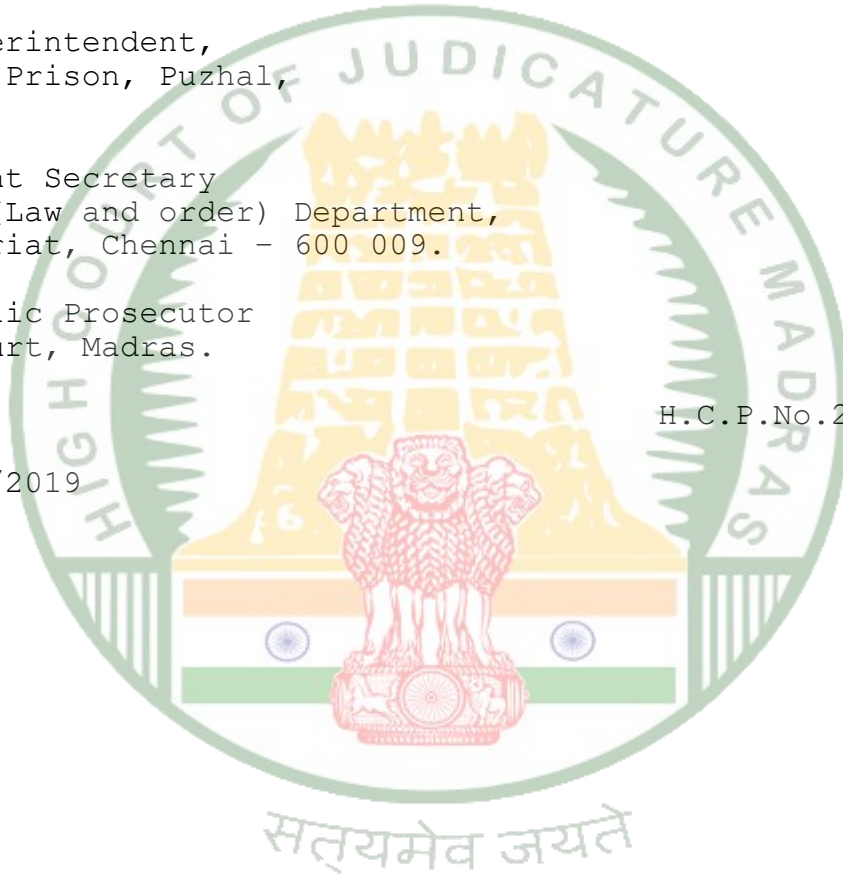
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To:

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

H.C.P.No.2329 of 2018

rrs 01/02/2019



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