

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED : 01.04.2019  
CORAM:  
THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN  
and  
THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR  
H.C.P.No.2657/2018

Lakshmi

..Petitioner/Mother of the detenue

vs.

1.The Government of Tamil Nadu rep.by its  
Secretary, Home, Prohibition & Excise [XVI] Department  
Fort St George, Chennai 600 009.

2.The Commissioner of Police,  
O/o.The Commissioner of Police  
Greater Chennai, Veppery  
Chennai.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus calling for the records in detention order Memo No.956/BCDFGISSSV/2018 dated 17.10.2018 on the file of the 2<sup>nd</sup> respondent and quash the same and direct the respondents herein to produce the body of the petitioner's son Manikandan @ Gundu Mani, aged about 22 years the detenu now confined in Central Prison, Puzhal, before this Court and set him at liberty.

For Petitioner .. Mr.K.Kannan

For Respondents.. Mr.C.Iyyappa Raj, APP

ORDER

(Order of the Court was made by M.SATHYANARAYANAN, J)

The petitioner is the mother of the detenu herein and challenging the legality of the impugned order of detention dated 17.10.2018 passed by the 2<sup>nd</sup> respondent, in and by which, the detenu has been branded as a 'Goonda' under the provisions of section 3[1] 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), came forward to file the present habeas corpus petition.

2 As per the Grounds of Detention dated 17.10.2018 passed by the 2<sup>nd</sup> respondent herein, the detenu came to the adverse

notice in the following cases:-

i) Adverse cases:

| Sl No . | Name of the Police station and Crime No. | Section of law |
|---------|------------------------------------------|----------------|
| 1       | B2 Esplanade PS<br>Cr.No.266/2018        | 392 IPC        |
| 2       | T14 Mangadu PS<br>Cr.No.1321/2018        | 380 IPC        |
| 3       | T14 Mangadu PS<br>Cr.No.1458/2018        | 457, 380 IPC   |

3 It is further averred in the Grounds of Detention dated 17.10.2018 that the defacto complainant, viz., Silambarasan, is a resident of Thirupathur, Vellore District and he is working in a Vulcanising shop at Porur and on 05.10.2018 at about 06.00 hours, a person, whose identification came to be known later, approached the complainant and asked him to repair the puncture of his vehicle and when the complainant came nearer to him, the said person caught hold of the complainant's shirt, brandished a knife and pressed the same on his stomach and also abused him in filthy language and disclosed his identity as the detenu and in the process, snatched a sum of Rs.2000/- as well as the cell phone from the complainant and when the complainant raised an alarm, public gathered and they were also threatened with dire consequences and taking advantage of the situation, the detenu fled away from the scene of occurrence. The Inspector of Police attached to T15 SRMC Police Station, on receipt of the complaint, has registered a case in Cr.No.628/2018 for the commission of the offences u/s.294[b], 336, 427, 397 and 506[ii] IPC [ground case] and took up the case for investigation. On the same day, at about 11.00 hours, the detenu was arrested and he voluntarily came forward to give a confession statement ; in pursuant to the admissible portion of the same, incriminating articles were recovered. Arrest Intimation of the detenu was given to his aunt Tmt.Ranjitham. The accused was produced before the Court of Judicial Magistrate No.1, Poonamallee on 05.10.2018 and were remanded to judicial custody till 17.10.2018. The Detaining Authority on a perusal and consideration of the materials has derived the subjective satisfaction that the activities of the detenu was prejudicial to the maintenance of the public peace and order and as such, branded him as a 'Goonda' and detained 'him under the provisions of the Tamil Nadu Act 14 of 1982, by clamping the impugned order of detention and challenging the legality of the same, the present petition is filed.

4 The learned counsel for the petitioner has drawn the attention of this Court to paragraph No.4 of the Grounds of Detention and would submit that the detenu is in custody in connection with the ground case as well as in the adverse cases No.2 and 3 and admittedly, he did not file any application for bail in the said three cases and the Detaining Authority, in order derive at the subjective satisfaction that there is an imminent and real possibility of the detenu coming out on bail and indulging in activities, which are prejudicial to the maintenance of public order, had relied upon the Special Report of the Sponsoring Authority, which is available at page No.183 of the typed set of documents. The primordial submission is that except the self serving statement of the Sponsoring Authority, no material whatsoever has been placed to show that the relatives of the detenu are taking efforts to file bail applications in the said 3 cases and therefore, the subjective satisfaction derived by the Detaining Authority in that regard, is vitiated and hence, prays for quashment of the same.

5 Per contra, Mr.C.Iyyappa Raj, learned Additional Public Prosecutor appearing for the State would submit that the Detaining Authority on taking into consideration of the materials, had rightly reached the subjective satisfaction and clamped the impugned order of detention and hence, prays for dismissal of this petition.

6 This Court has considered the rival submissions and also perused the materials placed before it.

7 A perusal of the Booklet supplied to the detenu would disclose that in page No.183, the Special Report of the Sponsoring Authority is available and it merely states that the relatives of the detenu are taking steps to get bail in favour of the detenu in the ground case as well as in the adverse cases 2 and 3 and no statements of the relatives u/s.161[3] Cr.P.C., is recorded in that regard and as rightly pointed out by the learned counsel for the petitioner, except the self-serving statement/report of the Sponsoring Authority, no material whatsoever has been placed before the Detaining Authority to derive the subjective satisfaction as to the real and imminent possibility of the detenu coming out on bail in the said cases and indulge in activities which are prejudicial to the maintenance of the public order and peace and hence, on this sole ground, the impugned order of detention warrants interference.

8 In the result, the Habeas Corpus Petition is allowed and the impugned order of detention passed by the 2<sup>nd</sup> respondent dated 17.10.2018 is hereby set aside. The detenu who is now

confined in the Central Prison, Puzhal, Chennai, is directed to be released forthwith unless his presence [or] custody [or] detention is required in connection with any other case/proceedings.

Sd/-  
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

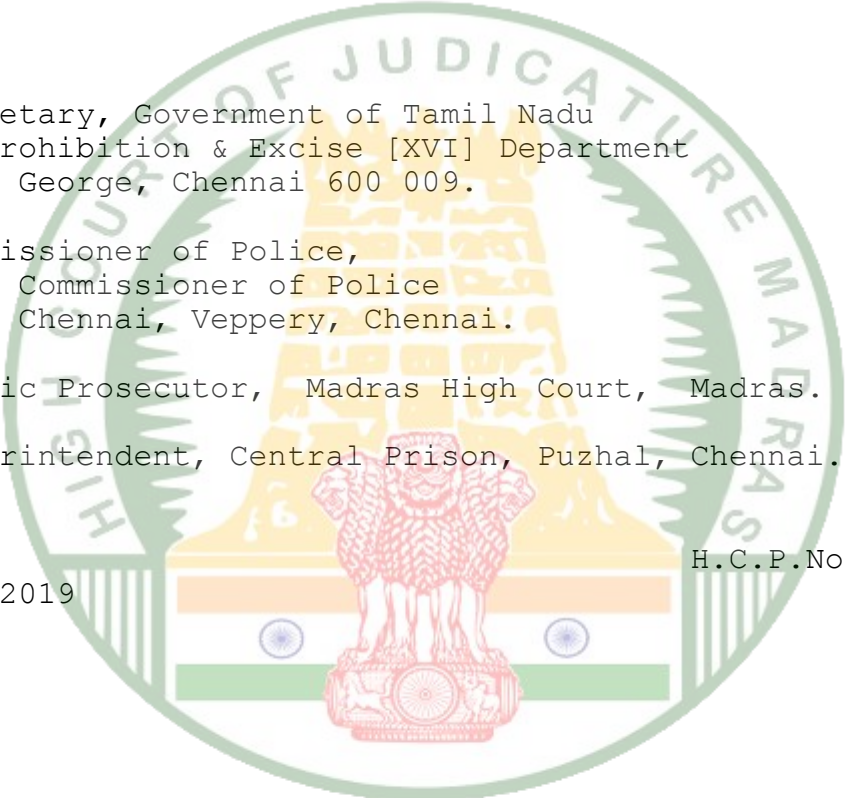
AP

To

- 1.The Secretary, Government of Tamil Nadu  
Home, Prohibition & Excise [XVI] Department  
Fort St George, Chennai 600 009.
- 2.The Commissioner of Police,  
O/o.The Commissioner of Police  
Greater Chennai, Veppery, Chennai.
- 3.The Public Prosecutor, Madras High Court, Madras.
- 4.The Superintendent, Central Prison, Puzhal, Chennai.

CSL/28.05.2019

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सत्यमेव जयते

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