

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.02.2020

CORAM

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

H.C.P.No.2360 of 2019

Sheriba

...Petitioner/Mother
of Detenu

Vs

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

2.The Commissioner of Police,
Greater Chennai Police.

3.The Inspector of Police,
S-8, Adambakkam Police Station,
Chennai.

.... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus calling for the records of the detention order dated 01.10.2019 in detention order BCDFGISSSV No.632 of 2019 on the file of the second respondent herein and quash the same and direct the respondents herein to produce the body of the detenu Rizwan, S/o.Sirajudeen, aged about 25 years, who is now confined in Central Prison, Puzhal before this Court and set him at liberty.

For Petitioner : Mr.R.Thamarai Selvan

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. Rizwan, S/o.Sirajudeen, aged 25 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 Memo No.632/BCDFGISSSV/2019 dated 01.10.2019.

2. The alleged ground case has been registered against the detenu in Crime No.485 of 2019 on the file of S-8 Adambakkam Police Station for offences u/s. 147, 148 341, 294(b), 323, 397, 427, 336 and 506(ii) IPC. Aggrieved by the order of detention, the present writ petition has been filed.

3. Heard learned counsel for petitioner and learned Additional Public Prosecutor appearing for respondents. Perused the materials on record.

4. Learned counsel for petitioner submits that in the case cited as similar, the offence alleged was under Sections 341, 294(b), 336, 323, 427, 397 and 506(ii) IPC., whereas the ground case has been registered against the detenu under Section 147, 148 341, 294(b), 323, 397, 427, 336 and 506(ii) IPC. The non-consideration of such aspect reflects non-application of mind.

5. We have heard learned Additional Public Prosecutor on the above submissions.

6. As rightly submitted by learned counsel for petitioner, the similar case referred to and relied upon by the Detaining Authority to infer that the detenu would be granted bail in the ground case, is not a similar case. Hence, we find that the order of detention suffers from non-application of mind.

Accordingly, the Habeas Corpus Petition is allowed and the detention order passed by the second respondent against the detenu viz., Rizwan, S/o. Sirajudeen in Memo No.632/BCDFGISSSV/2019 dated 01.10.2019, is set aside. The above named detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other cases.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

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

2.The Commissioner of Police,
Greater Chennai Police.

3.The Inspector of Police,
S-8, Adambakkam Police Station,
Chennai.

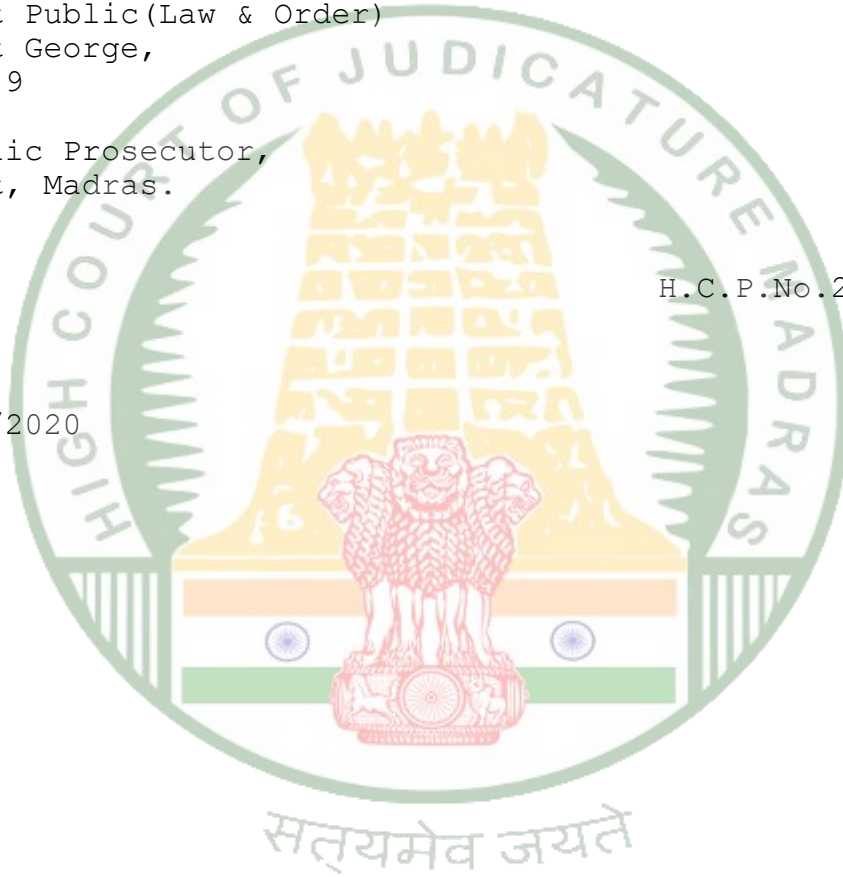
4.The Superintendent,
Central Prison,
Puzhal, Chennai-66.

5.The Joint Secretary to
Government Public(Law & Order)
Fort Saint George,
Chennai - 9

6.The Public Prosecutor,
High Court, Madras.

H.C.P.No.2360 of 2019

KJ(CO)
KKV/21/07/2020



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