

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2020

CORAM

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

H.C.P.No.2366 of 2019

Sumathi ... Petitioner/Mother of the Detenu

vs

1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.

2.District Collector & District Magistrate,
Vellore District,
Vellore 9.

... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus calling for the records in connection with the order of detention passed by the second respondent dated 15.07.2019 in Memo No.C3/D.O.No.76/2019 against the petitioner's son Prabu, Male, aged 24 years, S/o.Madhavan, who is confined at Central Prison, Vellore and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.D.Balaji

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. Prabu, aged 24 years, S/o.Madhavan, who has been branded as a 'Goonda' under the Tamil Nadu Act 14 of 1982 and detained under order of second respondent passed in C3/D.O.No.76/2019 dated 15.07.2019.

2. The alleged ground case has been registered against the detenu in Crime No.344 of 2019 on the file of Kaveripakkam Police Station for offences u/s.294(b), 392, 394, 307 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 294(b), 394, 397 & 506(i) IPC., whereas the ground case has been registered against the detenu under Sections 294(b), 392, 394, 307 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., Prabu, S/o.Madhavan, in C3/D.O. No.76/2019 dated 15.07.2019, 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 case.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

vga
To

1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.

2.District Collector & District Magistrate,
Vellore District,
Vellore 9.

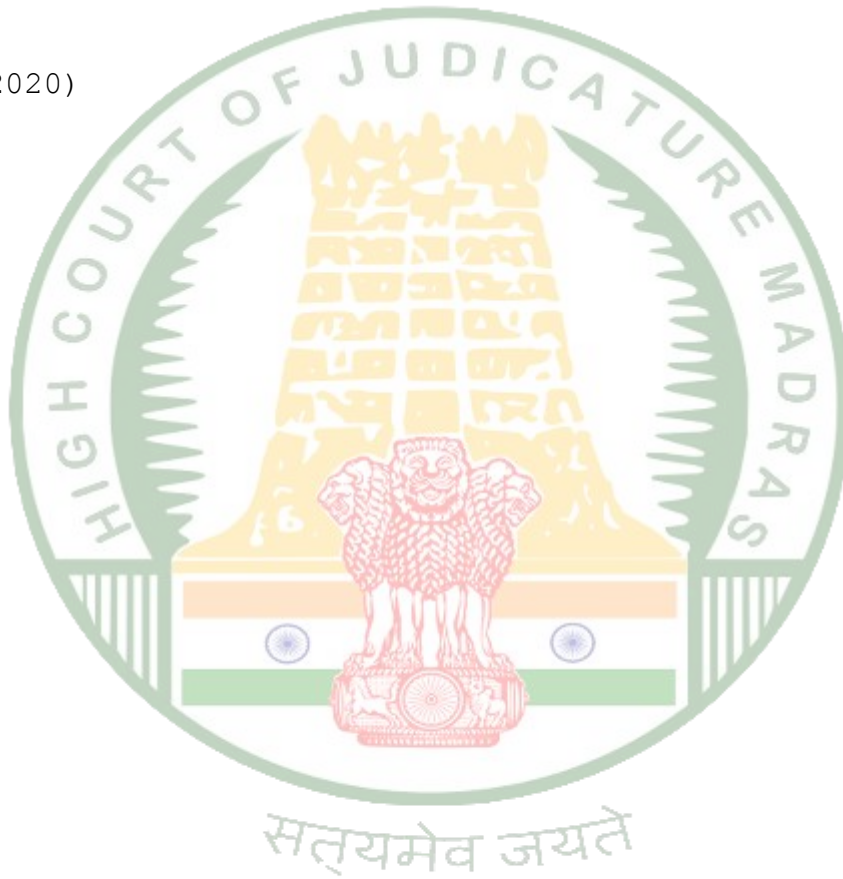
3.The Superintendent
Central Prison
Vellore

4.The Joint Secretary to Government
Public (law and order)
Fort. St. George
Chennai 9.

5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.2366 of 2019

VBA (CO)
SP(05/03/2020)



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