

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2020

CORAM

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

H.C.P.No.2498 of 2019

R.Anitha W/o.Rahul

...Petitioner

Vs

1.The Secretary to Government, (Home)
Prohibition and Excise Department,
Secretariat, Chennai - 600009.

2.The Commissioner of Police,
Greater Chennai Police,
Office of the Commissioner of Police,
(Goondas Section), Egmore,
Chennai.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus calling for the records leading to the detention of petitioner's husband viz. Rahul S/o.Bose, aged 23 years, who is presently lodged in Central Prison, Puzhal, Chennai and has been detained under Act 14/82 as a Goonda vide detention order dated 06.09.2019 on the file of second respondent herein, made in No.568/BCDFGISSSV/2019, quash the same and consequently, direct the respondents herein to produce the body and person of the said detenu before this Court and set him at liberty from Central Prison, Puzhal, Chennai.

For Petitioner : Mr.J.Senthamil Arasu

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

WEB COPY
O R D E R

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

Petitioner is the wife of the detenu viz. Rahul S/o.Bose, aged 23, who has been branded as a 'Goonda' under the Tamil Nadu Act 14 of 1982 and detained under order of second respondent passed in No.568/BCDFGISSSV/2019 dated 06.09.2019.

2. The detenu came to adverse notice in Crime No.501/2019 on the file of M1 Madhavaram Police Station for offences u/s.147, 148, 448 and 302 IPC. The alleged ground case has been registered against the detenu in Crime No.503 of 2019 on the file of M1 Madhavaram Police Station for offences u/s.147, 148, 341, 294(b), 323, 395, 397, 336, 427 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 despite informing that the detenu has not filed any bail application in the ground case, the detaining authority has informed a real possibility of the detenu coming out on bail by filing a bail application since in a similar case bail was granted by learned Principal District and Sessions Judge, Tiruvallur, in CrI.M.P.No.817 of 2019 in respect of Crime No.17 of 2019 on the file of M1 Madhavaram Police Station for offences u/s.147, 148, 341, 294(b), 336, 427, 392, 397 and 506(ii) IPC. Learned counsel submits that in the case cited as similar, some of the offences alleged in the ground case are missing. 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, in the similar case, relied on by the detaining authority in arriving at a subjective satisfaction, some of the offences alleged in the ground case are missing. 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., Rahul S/o.Bose, aged 23, in No.568/BCDFGISSSV/2019 dated 06.09.2019, 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.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gm

To

1.The Secretary to Government, (Home)
Prohibition and Excise Department,
Secretariat,
Chennai - 600009.

2.The Commissioner of Police,
Greater Chennai Police,
Office of the Commissioner of Police,
(Goondas Section),
Egmore,
Chennai.

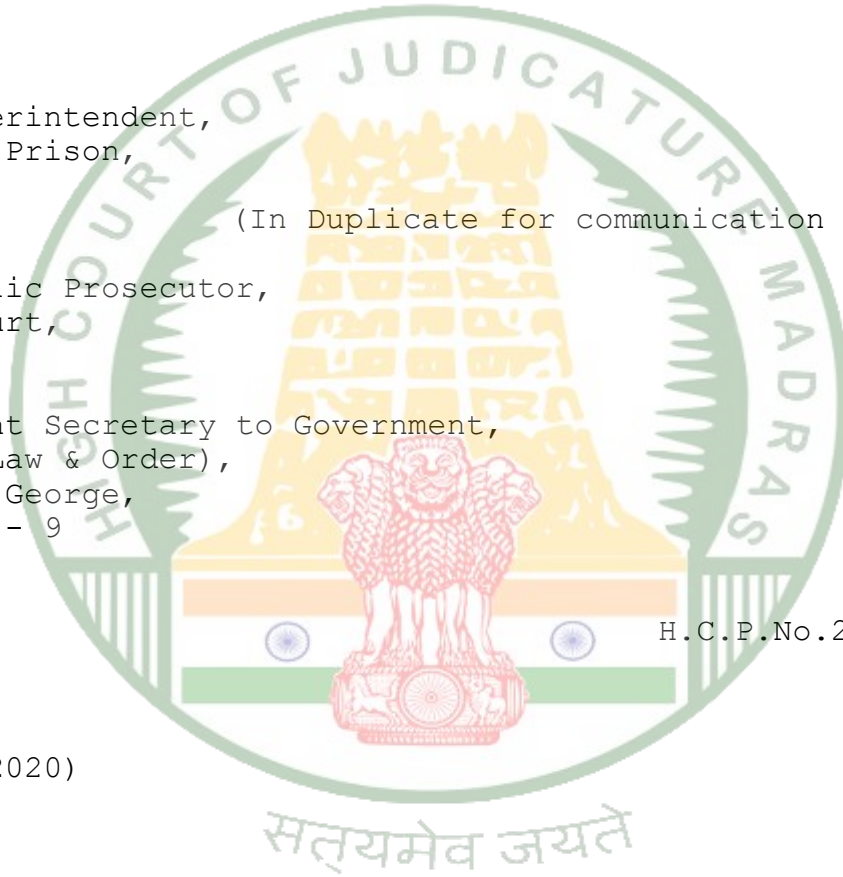
3.The Superintendent,
Central Prison,
Puzhal,
Chennai. (In Duplicate for communication to Detenue)

4.The Public Prosecutor,
High Court,
Madras.

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

H.C.P.No.2498 of 2019

SS(CO)
RN(01/06/2020)



WEB COPY