IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2015

CORAM

THE HONOURABLE DR.JUSTICE S.TAMILVANAN

and

THE HONOURABLE MR.JUSTICE C.T.SELVAM

H.C.P.No.1526 of 2015

M.Ambika

..Petitioner

vs.

1. The Secretary,
   Department of Prohibition and Excise,
   Government of Tamil Nadu,
   Chennai - 600 009.

2. The District Collector cum District Magistrate,
   Coimbatore District,
   Coimbatore. .. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus to call for the records pertaining to detention order passed by second respondent in Cr.M.P.No.31/G/2015/E1 dated 19.05.2015 against the detenu Sujith S/o.Mohan @ Nathan, aged 26, quash the same and consequently, direct the respondents to produce the detenu, who is confined at Central Prison, Coimbatore, before this Court and set him at liberty.

For Petitioner : Mr.T.Michael Stanis Prabhu

For Respondents : Mr.M.Maharaja
Additional Public Prosecutor

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O R D E R

[Order of the Court was made by S.TAMILVANAN, J.]

Petitioner is the mother of the detenu, who has been branded as a "Goonda" under the Tamil Nadu Act 14 of 1982 and detained under orders of second respondent passed in Cr.M.P.No.31/G/2015/E1 dated 19.05.2015. Such order is under challenge herein.

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2. The ground case has been registered against the detenu in Crime No.79 of 2015 on the file of Anaimalai Police Station for offences under Sections 147, 148 and 302 IPC.

3. Amidst several grounds raised, learned counsel for petitioner submits that though the detaining authority has considered the position that the bail application of the detenu in the ground case stood dismissed, he has gone on to inform that there was a likelihood of the detenu being released on bail since an another bail application has been filed by him and therefore, there was a real possibility of his coming out on bail and if he comes out on bail, he will indulge in further activities which will be prejudicial to the maintenance of public order. There is no material to support such contention. Hence, the detention order suffers from non-application of mind.

4. We have heard learned Additional Public Prosecutor on the above submissions and also perused the records.

5. We find that the likelihood or otherwise of the detenu being so released on bail has not been arrived at by taking into consideration the fact whether in similar cases bail was granted and by placing reliance on such similar cases. Therefore, the non-application of mind and erroneous subjective satisfaction arrived at by the detaining authority is apparent. This order is made only towards setting aside the order of detention passed against the detenu herein. Any bail applications moved by the detenu in the ground case or in any other case, necessarily would have to be considered by the Court concerned solely on merits uninfluenced by the order of this Court.

The detention order passed by second respondent, detaining the detenu Sujith S/o.Mohan @ Nathan, aged about 26 years, made in Cr.M.P.No.31/G/2015/E1 dated 19.05.2015, is quashed and the Habeas Corpus Petition is allowed. The above named detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

gm

Sd/-
Assistant Registrar (CS-III)

/True Copy/

Sub-Assistant Registrar

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To

1. The Secretary,
   Department of Prohibition and Excise,
   Government of Tamil Nadu,
   Chennai - 600 009.

2. The District Collector cum District Magistrate,
   Coimbatore District,
   Coimbatore.

3. The Superintendent,
   Central Prison,
   Coimbatore.

4. The Joint Secretary to Government,
   Public (Law and Order),
   Fort St.George, Chennai - 600 009,

5. The Public Prosecutor,
   High Court, Madras.

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RV(CO)
sd : 09/10/2015

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