

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2015

CORAM

THE HONOURABLE DR. JUSTICE S.TAMILVANAN  
and  
THE HONOURABLE MR. JUSTICE C.T.SELVAM

H.C.P.No.1643 of 2015

Priya

W/o.E.Bennatic Varghese @ Benny

.. Petitioner

Vs.

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

2.The Commissioner of Police/Detaining Authority,  
O/o.The Commissioner Office,  
Coimbatore City,  
Coimbatore.

.. Respondents

Writ 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 C.No.29/G/IS/2015 dated 29.06.2015 against the detenu F.Bennatic Varghese @ Benny S/o.Late Francis, aged 28, 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.S.Vinoth

For Respondents : Mr.M.Maharaja,  
Additional Public Prosecutor

O R D E R

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

Petitioner is the wife 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 C.No.29/G/IS/2015 dated 29.06.2015. Such order is under challenge herein.

2. The detenu came to adverse notice in the following cases:

| Sl. No. | Name of the Police Station and Crime No.                                 | Section of Law     |
|---------|--------------------------------------------------------------------------|--------------------|
| 1       | Coimbatore City, B-7 Ramanathapuram Police Station, Crime No.121 of 2014 | 302 IPC            |
| 2       | Coimbatore City, B-7 Ramanathapuram Police Station, Crime No.124 of 2014 | 294(b) and 307 IPC |

The ground case has been registered against the detenu in Crime No.276 of 2015 on the file of B-7 Ramanathapuram Police Station for offences under Sections 392 r/w 397 and 506(ii) IPC.

3. Learned counsel for petitioner submits despite the admitted position that the detenu has not filed any bail application in the ground case, the detaining authority has informed a real possibility of his coming out on bail by filing a bail application since in a similar case bail was granted by learned Principal District and Sessions Judge, Coimbatore, in CrI.M.P.No.1928 of 2013 in respect of Crime No.638 of 2012 on the file of Coimbatore City, B-15 Rathinapuri Police Station, for offences u/s.392 r/w 397 and 506(ii) IPC. Learned counsel submits that in the case cited as similar bail was granted taking into consideration the fact that the detention order passed against the accused has been revoked and it is not so in the ground case. The non-consideration of such aspect reflects non-application of mind.

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

5. We find that the order of detention does suffer from non application of mind and for the reasons put forth by the learned counsel for the petitioner. The order under challenge would have to fall.

6. The detention order passed by second respondent, detaining the detenu F.Bennatic Varghese @ Benny S/o.Late Francis, aged about 28 years, made in C.No.29/G/IS/2015 dated 29.06.2015, 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.

The present order is only for the purpose of disposal of this petition and shall not have any bearing upon connected criminal cases pending before the competent Court.

Sd/-  
Asst.Registrar (CS VII )

/true copy/

Sub Asst. Registrar

gm

To

- 1.The Secretary to Government,  
Home, Prohibition and Excise Department,  
Secretariat,  
Fort St.George,  
Chennai - 600 009.
- 2.The Commissioner of Police/Detaining Authority,  
O/o.The Commissioner Office,  
Coimbatore City,  
Coimbatore.
- 3.The Public Prosecutor,  
High Court, Madras.
- 4.The Superintendent of Central Prison  
Coimbatore.
- 5.The Joint Secretary to Government,  
Public (Law & Order)Department,  
Fort St.George, Chennai 9.

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kra 05/11/2015

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