

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.10.2015

C O R A M

THE HONOURABLE MR.JUSTICE C.T.SELVAM
AND
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

Habeas Corpus Petition No.1776 of 2015

Mala

W/o.Murthy

..Petitioner/Wife of the detenu

-vs-

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

2.The District Collector and
District Magistrate,
Thiruvallur District,
Thiruvallur.

... Respondents

Writ petition under Article 226 of the Constitution of India filed praying for issuance of a writ of Habeas Corpus to call for the records in connection with the order of detention passed by the second respondent dated 24.06.2015 in BCDFGISSSV No.16/2015 against the petitioner's husband Murthy, male, aged 46 years, S/o.Arumugam (Late), now confined at Central Prison, Puzhal, Chennai and set aside the same and direct the respondents to produce the detenu before this Court and to set him at liberty.

For Petitioner : Mr.S.Senthil Vel

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

O R D E R

(The order of the Court was made by C.T.SELVAM, J.)

Petitioner is the wife of the detenu Murthy, S/o.Arumugam, who has been branded as "Goonda" under the Tamil Nadu Act 14 of 1982 and detained under orders of second respondent passed in BCDFGISSSV No.16/2015 dated 24.06.2015. Such order is under challenge herein.

2. The ground case has been registered against the detenu in Crime No.37 of 2015 on the file of E-4 Kattur Police Station for offences u/s.341, 147, 148 and 302 IPC.

3. Amidst several grounds raised, learned counsel for petitioner submits that the detaining authority has informed the possibility of the detenu coming out on bail in the ground case, since in the similar case registered at Pullarambakkam Police Station Crime No.130/2013 for the offences under Sections 147, 148, 324, 302 r/w.120(b) IPC bail stood granted. The non application of mind on the part of the detaining authority is apparent since in the case cited as similar offences under Section 147, 148, 324, 302 r/w.120(b) IPC stood attracted whereas in the ground case no offence under Section 324 or 120(b) IPC were alleged. Hence, the subjective satisfaction arrived at by the detaining authority is without objective consideration.

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

5. Finding that non-application of mind on the part of the detaining authority is apparent and for the reasons put forth by learned counsel for petitioner, the order under challenge would have to fall.

This Habeas Corpus Petition is allowed. The impugned order passed by second respondent against the detenu Murthy, S/o.Arumugam, made in BCDFGISSSV No.16/2015 dated 24.06.2015, is quashed. The detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
- 2.The District Collector and
District Magistrate,
Thiruvallur District, Thiruvallur.
- 3.The Public Prosecutor
High Court, Chennai.
- 4.The Superintendent of Central Prison,
Puzhal, Chennai.
5. The Joint Secretary to Government Public
(Law & order) Fort St. George, Chennai.

H.C.P.No.1776 of 2015

MSM(CO)

EU 24.11.15

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