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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.09.2015

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

and

THE HONOURABLE MR.JUSTICE V.S.RAVI

H.C.P (MD) No.523 of 2015

Aayeshabeevi

.. Petitioner

Vs.

1. State of Tamil Nadu,
rep. by its Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai-600 009.

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

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus, calling for the records relating to the Detention Order passed by the 2nd Respondent in P.D.O.No.03/2015, dated 25.03.2015 and quash the same and direct the respondents to produce the body or person of the detenu namely Chandru, son of Ganesan, aged 28 years, now detained at Central Prison, Trichy before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.P.Kamaraj

For Respondents : Mr.T.Mohan

Additional Public Prosecutor.

O R D E R

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

The petitioner is the mother of the detenu Mr.Chandru, S/o.Ganesan, aged about 28 years. He has been detained under Tamilnadu Act 14 of 1982 as per the order of the second respondent in his proceedings in P.D.O.No.03/2015, dated 25.03.2015, branding him as "Goonda". Challenging the same, the petitioner has come up with this this Habeas Corpus Petition.

<https://hcservices.ecourts.gov.in/hcservices/>

2. We have heard the learned counsel appearing for the petitioner and learned Additional Public Prosecutor appearing for the State. We have also gone through the records carefully.



3. Though several grounds have been raised in this petition, the learned counsel for the petitioner would mainly focus his arguments on the ground that the impugned detention order has been passed in total non application of mind on the part of the Detaining Authority. He would further point out that in the ground case in Crime No.57 of 2015 and in one adverse case in Crime No.56 of 2015, the bail application was filed before the competent Court and the same was dismissed. But the Detaining Authority has stated that no such bail application was filed in respect of the ground case in Crime No.57 of 2015. The learned counsel for the petitioner would submit that the impugned detention order has been passed in a mechanical fashion.

4. The learned Additional Public Prosecutor would, however, oppose this petition.

5. We have considered the above submissions.

6. In paragraph No.5 of the detention order, it is crystal clear that the Detaining Authority has stated that no bail application was filed in Crime No. 57 of 2015, whereas the fact remains that the bail application was filed and the same was dismissed by the competent Court. In connection with the adverse case, there is no reference in the detention order.

7. In our considered view, the impugned detention order, had been passed without application of mind on the part of the Detaining Authority. In such view of the matter the impugned detention order is liable to be set aside.

8. In the result, this Habeas Corpus Petition is allowed and the impugned Detention Order, passed by the second respondent, in Detention Order in P.D.O.No.03/2015, dated 25.03.2015, is quashed. The detenu, namely, Chandru, son of Ganesan, aged 28 years, is ordered to be set at liberty forthwith, if he is not required for detention in connection with any other case.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. The District Collector and District Magistrate,
O/o. the District Collector and District Magistrate,
Pudukkottai, Pudukkottai District.

2. The Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George, Chennai -9.



3.The Superintendent of Prison,
Central Prison,
Tiruchirappalli,

Tiruchirappalli District.(in duplicate to communicate the detenu)

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

5 The Joint Secretary, Government of Tamil Nadu,
Public (Law & order) Department, Fort St. George, Chennai 600 009.

+1cc to M/S.P.Kamaraj, Advocate in SR.No. 53690.

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ORDER MADE IN
H.C.P (MD) No.523 of 2015

11.09.2015