



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED : 18.08.2015

CORAM:  
THE HONOURABLE MR.JUSTICE S.NAGAMUTHU  
and  
THE HONOURABLE MR.JUSTICE V.S.RAVI

H.C.P(MD)No.803 of 2015

B.Revathy  
W/o.C.Balamurugan @ Prabhu  
No.16 Kulasirai Nainar Street  
Palayamkottai  
Tirunelveli City.

.. Petitioner

Vs.

1.The Commissioner of Police,  
O/o. Commissioner of Police,  
A.R.Line Road, Goripallam,  
Palayamkottai, Tirunelveli City.

2.The Secretary to the Government  
Home, Prohibition and Excise Department  
Secretariat, Chennai.

3.The Inspector of Police  
Palayamkottai Police Station,  
Tirunelveli City.

.. Respondents

Habeas Corpus Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus to direct the respondents to produce the body of detenu namely C.Balamurugan alias Moolikulam Prabhu aged about 37 years son of Chelladurai before this Court, who is now detained in the Central Prison, Palayamkottai in pursuant to the detention order passed by the 1<sup>st</sup> respondent in No.48/BCDFGISSV/2015 dated 20.05.2015 and to call for the records and quash the same and release the detenu at liberty forthwith.

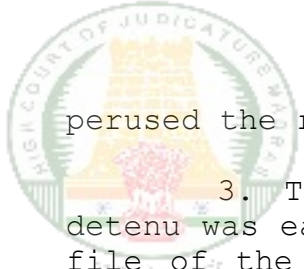
For Petitioner : Mr.N.Mohideen Basha

For Respondents : Mr.T.Mohan,  
Addl.Public Prosecutor

ORDER

(Order of the Court was made by S.NAGAMUTHU, J.)

The petitioner is the wife of one Mr.C.Balamurugan @ Prabhu, who has been detained under Act 14 of 1982 as per the order of the first respondent in No. 48/BCDFGISSV/2015 dated 20.05.2015. Challenging the same, the petitioner is before this Court with this Habeas Corpus Petition.



perused the records carefully.

3. The learned counsel for the petitioner would submit that the detenu was earlier involved in a murder case in Crime No.853 of 2013 on the file of the Palayamkottai Police Station. In that case, he was already released on bail. Thereafter, the detenu was not involved in any crime. While so, on 16.05.2015, yet another case was foisted against the detenu on the file of the Tirunelveli Medical College Hospital Police Station in Crime No.74 of 2015 under Sections 294(b), 353, 307 and 506(ii) IPC and Section 25(1)(A) of the Arms Act. Yet another case has been registered on the same day against the detenu in Crime No.350 of 2015 under Sections 294 (b), 353, 307 and 506(ii) IPC and Section 25(1)(A) of the Indian Arms Act. Based on these three cases, the detention order was passed. The learned counsel would submit that in Paragraph No.6 of the order, in order to arrive at a satisfaction that there was real possibility of the accused coming out on bail, the Detaining Authority has referred to the grant of bail to the detenu in Crime No.350/2015 on 20.05.2015. But the fact remains that he was remanded in custody in connection with the case in Crime No.74/2015 and in which, he did not file any application for bail at all. Thus, according to the learned counsel, there was no likelihood of the detenu coming out on bail.

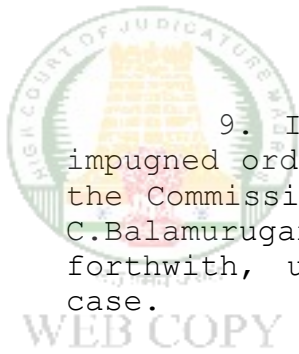
4. The learned Additional Public Prosecutor would submit that in paragraph No.6 of the order, of course, there is no reference made about the custody of the detenu in judicial remand in connection with the case in Crime No.74 of 2015. But on that score, the impugned order cannot be quashed, he contended.

5. We have considered the above submissions.

6. As pointed out by the learned counsel, the detenu was remanded to judicial custody on 16.05.2015 in connection with two cases, namely, Crime Nos.350/2015 and 74/2015. He was granted bail by the learned Sessions Judge only in one case, which is in Crime No.350/2015. In Crime No.74/2015, he did not even file any application for bail and still he was in judicial remand. When that be so, the satisfaction of the Detaining Authority that he would come out on bail and indulge in similar activities is wholly baseless. It is not understandable as to why the Detaining Authority has omitted to apply his mind into the detention of the detenu in connection with the case in Crime No.74/2015.

7. In this regard, the learned counsel has relied on a Division Bench judgment of this Court in *Jaina vs. Secretary to Government and another* reported in (2014) 2 MLJ (Cr1) 134, wherein also, the Division Bench has taken a similar view.

8. In view of the above, though several grounds have been raised in the petition, we do not find it necessary to go into all the other grounds. We are inclined to quash the detention order on the above discussed ground alone.



9. In the result, the Habeas Corpus Petition is allowed and the impugned order of Detention in 48/BCDFGISSV/2015 dated 20.05.2015 passed by the Commissioner of Police, Tirunelveli District, is quashed. The Detenu, C.Balamurugan @ Prabhu, Son of Chelladurai, is directed to be released forthwith, unless his presence is required in connection with any other case.

TRUE COPY

SD

ASST REGISTRAR ( T AND P )

SUB ASST REGISTRAR

RR

To

- 1.The Commissioner of Police,  
O/o. Commissioner of Police,  
A.R.Line Road, Goripallam,  
Palayamkottai, Tirunelveli City.
- 2.The Secretary to the Government  
Home, Prohibition and Excise Department  
Secretariat, Chennai.
3. The Joint Secretary, Public Law and Order,  
Fort St. George, Chennai 9.
- 4.The District Magistrate and District Collector,  
Tirunelveli District, Tirunelveli.
5. The Superintendent of Central Prison, Palayamkottai.
- 6.The Inspector of Police  
Palayamkottai Police Station,  
Tirunelveli City.
- 7.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

1cc to MR. N. MOHIDEEN BASHA, ADV SR: 47396

RG 19 8 15 - 3P 9C

ORDER MADE IN  
H.C.P(MD)No.803 of 2015

18.08.2015