

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 12.05.2017

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THE HONOURABLE MR. JUSTICE M.V. MURALIDARAN
and
THE HONOURABLE MR. JUSTICE S. BASKARAN

H.C.P No.115 of 2017

A.Thaslim Fathima, F/A 25 years,
W/o Zaheer Hussain.

...Petitioner

/versus/

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St.George, Chennai - 600 009
- 2.The Commissioner of Police/Detaining Authority,
Coimbatore City, Coimbatore District.Respondents

Prayer: Habeas Corpus Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus to call for the entire records relating to the petitioner's brother detention under Tamil Nadu Act 14 of 1982 vide detention order, dated 09.01.2017 on the file of the second respondent herein made in proceedings Memo C.No.03/G/IS/2017, quash the same as illegal and consequently direct the respondents herein to produce the petitioner's brother namely A.Ameer Abbas, S/o Amanullah, aged 25 years before this Court and set the petitioner's brother at Liberty from detention now the petitioner's brother detained at Central Prison, Coimbatore.

सत्यमेव जयते

For Petitioner : Mr.W.Camyles Gandhi
For respondents: Mr.V.M.R. Rajentren
Addl. Public Prosecutor

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ORDER

(Order of the Court was made by M.V. MURALDARAN,J.,)

The petitioner, who is the sister of the detenu A.Ameer Abbas, S/o Amanullah, has come up with this habeas corpus petition, challenging the detention order passed against A.Ameer Abbas by the second respondent, vide proceedings Memo C.No.03/G/IS/2017, dated 09.01.2017.

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

3. Though several grounds were raised in the petition, the learned counsel appearing for the petitioner would mainly focus on the ground that though in the ground case the bail application filed in Crime No.836/2016 was dismissed on 04.01.2017, the Detaining Authority has stated that the relatives of the detenu were taking steps to file bail petition, in which case there was real possibility of the detenu coming out on bail. The learned counsel pointed out that to arrive at such a conclusion, there was no material placed before the detaining authority at all.

4. The learned Additional Public prosecutor would submit that in the Special report submitted by the Inspector of Police, there is a statement to the effect that the relatives of the detenu were taking steps to file bail application seeking bail in connection with the case in Crime No.836/2016.

5. We have considered the above submissions. Admittedly, as on the date of passing of the detention order, the bail application filed in Crime No.836/2016 was dismissed on 04.01.2017. Though it is alleged that his relatives were taking steps to file an application for bail, there were no materials available before the Detaining Authority, except the report of the Inspector of Police. Even the report of the Inspector of Police does not spell out as to how he came to know that the relatives were taking steps to file application seeking bail. Full details as to who are those relatives, who were taking steps to file bail application also have not been mentioned. Thus, in our considered view, without making proper application of mind relating to these facts, the detaining authority has

passed the detention order. Therefore, we are inclined to set aside the same.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 09.01.2017 passed by the second respondent is set aside. The detenu is directed to be released forthwith unless his presence is required in connection with any other case.

Sd/-
Assistant Registrar(CS VIII)

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Sub Assistant Registrar

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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,
Coimbatore City, Coimbatore District.
3. The Public Prosecutor, High Court, Chennai.
4. The Joint Secretary to Government
Public Law and Order
Fort St. George Chennai-9
5. The Superintendent Central Prison
Coimbatore
(In duplicate for communication to detenu)

H.C.P.No.115 of 2017

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