

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2017

CORAM

THE HON'BLE Mr.JUSTICE A.SELVAM
and
THE HON'BLE Mr.JUSTICE P.KALAIYARASAN

H.C.P.No.1166 of 2017

Haneefa

... Petitioner

Vs

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St. George,
Chennai-9.

2.The District Collector,
O/o.The District Collector,
Coimbatore District, Coimbatore.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to call for the records relating to the order of detention dated 22.11.2016 bearing Cr.M.P.No.38/G/2016/E1 passed by the 2nd respondent herein against the petitioner's son Shakeer, aged 31 years, S/o.Hanifa, confined at Central Prison, Coimbatore before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.G.K.Ilanthiraiyan
for M/s.Sai Bharath and Ilan

For Respondents : Mr.V.M.R.Rajentren,
Additional Public Prosecutor

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O R D E R

[Order of the Court was made by A.SELVAM, J.]

This Habeas Corpus Petition has been filed under Article 226 of the Constitution of India praying to call for records relating to the detention order passed in Cr.M.P.No.38/G/2016/E1 dated 22.11.2016 by the Detaining Authority against the detenu

by name, Shakeer, aged 31 years, S/o.Hanifa, residing at Simkadu, Kuthanur, Palakkad District, Kerala State and quash the same.

2. The Inspector of Police, Annur Police Station as Sponsoring Authority has submitted an affidavit to the Detaining Authority, wherein, it is stated to the effect that on 14.09.2016, at about 20.30 hrs, one Saratha, W/o.Somasundaram, as de facto complainant has given a complaint, wherein, it is alleged to the effect that the detenu has murdered her daughter and at such circumstances, a case has been registered in Crime No.339/2016 under Section 302 of the Indian Penal Code and ultimately, requested the Detaining Authority to invoke Act 14 of 1982 against the detenu.

3. The Detaining Authority after perusing the averments made in the affidavit and other connected documents, has arrived at a subjective satisfaction to the effect that the detenu has committed a grave offence and ultimately, branded him as goonda by way of passing the impugned Detention Order and in order to quash the same, the present petition has been filed by the father of the detenu as petitioner.

4. On the side of the respondents, counter has not been filed and therefore, the present Habeas Corpus petition has been disposed of on merits on the basis of available materials on record.

5. Learned counsel appearing for the petitioner has contended to the effect that the detenu has been arrested and remanded to custody on 26.09.2016. In the booklet, copy of the remand order is not available and the same would affect the rights of the detenu.

6. Per contra, the learned Additional Public Prosecutor has contended that the detenu has been supplied with all material records and therefore, the contention urged on the side of the detenu is liable to be rejected.

7. It is seen from the records that the detenu has been arrested and remanded to custody on 26.09.2016, as rightly pointed out on the side of the petitioner and a copy of the remand order is not found in the booklet. Since a copy of the remand order is not found in the booklet, the same would affect the rights of the detenu guaranteed under Article 22[5] of the Constitution of India and therefore, the Detention Order in question is liable to be quashed.

8. In fine, this petition is allowed. The Detention Order dated 22.11.2016 passed in Cr.M.P.No.38/G/2016/E1 by the

Detaining Authority against the detenu by name, Shakeer, aged 31 years, S/o.Hanifa is quashed and directed to set him at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Joint Secretary to Government of Tamil Nadu,
Public [Law and Order] Department,
Secretariat, Chennai-9.
- 2.The Secretary to Government [Home],
Prohibition and Excise Department,
Secretariat, Fort St. George, Chennai-9.
- 3.The District Collector,
Coimbatore District, Coimbatore.
- 4.The Superintendent,
Central Prison, Coimbatore.
- 5.The Public Prosecutor,
High Court, Madras.

+1cc to M/s.Sai Bharath and Ilan, Advocate, S.R.No.61756

H.C.P.No.1166 of 2017

CS IV
CA(29/08/2017)

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