

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 24.05.2017

CORAM

THE HONOURABLE MR. JUSTICE M.M.SUNDRESH

AND

THE HONOURABLE MR. JUSTICE R.MAHADEVAN

HCP No.187/2017

Shanthi

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Petitioner

Vs

1. The State represented by
The Secretary to Government (Home),
Prohibition and Excise Department,
Government of Tamilnadu,
Fort St.George,
Chennai-600 009.

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

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Respondents

Petition filed under Article 226 of the Constitution of India praying for a writ of Habeas Corpus to call for the records pertaining to the order of detention dated 30.11.2016 passed by the 2nd respondent in C.M.P.No.42/Goonda/ 2016/ M1, and to quash the same and produce the detainee, Matheshwaran, aged about 34 years, S/o Subramaniam, before this Court and set him at liberty, the detainee now confined in Central Prison, Salem.

For Petitioner : Mr.D.Mario Johnson

For Respondents : Mr.E.Raja

Addl. Public Prosecutor

ORDER

[Order of the court was made by M.M.SUNDRESH,J.]

The petitioner - wife of the Detenu, has come forward to challenge the Detention Order, dated 30.11.2016, inter alia alleging non-application of mind on the part of detaining authority. Primarily, it is contended that no bail application has been filed either in the ground case or in the adverse cases and therefore, there is no imminent possibility of the detenu, coming out on bail.

2 The learned counsel for petitioner would submit that the names and particulars of the relatives who are likely to move bail application have not been indicated, except a general statement.

3 From the detention order, we find that the Detaining Authority has pointed out that the detenu has not moved any bail application in the ground case and that the relatives are taking steps to file bail application in the ground case ; but a perusal of the Booklet furnished before this Court would reveal that the names and particulars of those relatives, who are taking such steps, are not furnished. Hence, we are of the view that the detention order is liable to be set aside for non-application of mind.

4 In such view of the matter, we are of the opinion that the detention order is liable to be quashed.

5 Accordingly, the Habeas Corpus Petition is allowed and the Detention Order dated 30.11.2016 passed by the second respondent hereby set aside and the detenu is directed to be released forthwith unless his presence is required in connection with other cases.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary to Government (Home),
Prohibition and Excise Department,
Government of Tamilnadu,
Fort St.George,
Chennai-600 009.
2. The District Magistrate and District Collector,
Namakkal District,
Namakkal.
3. The Superintendent , Central Prison
Salem

4. The Joint Secretary to Government
Public(Law and Order)
Fort. St. George
Chennai 9

5. The Public Prosecutor
High Court, Madras.

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