

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 17.05.2017

Coram:-

The Honourable Mr. Justice M.M.SUNDRESH
and
The Honourable Mr. Justice R.SUBRAMANIAN

Habeas Corpus Petition No.2676 of 2016

Nathia

... Petitioner

Vs.

1. The State, Rep., by its
The Secretary to Government (Home)
Prohibition and Excise Department,
Government of Tamil Nadu,
Fort St. George, Chennai-600 009.
2. The District Magistrate and District Collector,
Salem District, Salem. ... Respondents

Petition under Article 226 of the Constitution of India for the issuance of 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.48/Goonda/C2/2016, and to quash the same and produce the detenu Selvaraj @ Thuppakki Selvam, aged about 37 years, S/o Chinnannan, before this Court and set him at liberty, the detenu now confined in Central Prison, Salem.

For Petitioner : Mr.D.Mario Johnson
For Respondents : Mr.E.Raja,
Additional Public Prosecutor

O R D E R

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

Challenging the order dated 30.11.2016 passed by the second respondent, the present Habeas Corpus Petition has been filed.

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

3. The learned counsel appearing for the petitioner submits that the detention order is liable to be set aside on the ground of non application of mind. Admittedly, no bail application is pending as of now. The similar case relied upon by the detaining authority involves different set of facts. Therefore, there is no real possibility of the petitioner coming out on bail.

4. The learned Additional Public Prosecutor submits that the detenu involved in two other cases for the offences punishable under Section 302 IPC.

5. On a perusal of the detention order, we are satisfied that there is non application of mind on the part of the detaining authority while passing the detention order. Admittedly, the bail application filed by the petitioner was dismissed as early as on 21.10.2016. The petitioner has not filed further application before the trial Court or before this Court. There is no finding about an imminent possibility of the detenu coming out on bail. Even in two other cases, in which, he is said to have been involved, the detenu has not been enlarged on bail. In such view of the matter, we are inclined to quash the impugned order of detention.

5. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order in C.M.P.No.48/Goonda/C2/2016, dated 30.11.2016 passed by the second respondent is quashed. The detenu, viz., Selvaraj @ Thuppakki Selvam, is directed to be released forthwith, unless his presence is required in connection with any other case.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to the Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Chennai-600 009.

2. The District Magistrate and District Collector,
Salem District, Salem.
 3. The Superintendent, Central Prison, Salem
(In duplicate for communication to the petitioner)
 4. The Joint Secretary to Government, Public (Law and Order)
Fort St. George, Chennai-9.
 5. The Public Prosecutor, High Court, Madras.
- +1 CC to M/s. M. Mohamed Saifulla, Advocate sr 37775

RSK(CO)
sp/8/6

HCP. No.2676 of 2016



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