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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.01.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

AND

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

H.C.P. (MD) No.1004 of 2016

Gandhimathi

: Petitioner

Vs.

1. The Secretary to Government,
Stat of Tamil Nadu Home, Prohibition and Excise Department,
Fort St. George, Chennai-600 009.
 2. The District Magistrate and District Collector,
Office of the District Magistrate and District Collector,
Pudukkottai District, Pudukkottai.
 3. The Superintendent of Prison,
Tiruchirappalli Central Prison,
Tiruchirappalli District.
- : Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus, to call for the entire records, connected with the detention order of the second respondent in P.D.O.No.10 of 2016, dated 29.07.2016 and quash the same and direct the respondents to produce the body or person of the detenu, by name, Deepan @ Deepanraj, S/o.Jeyaraman, aged about 26 years, now detained at Tiruchirappalli Central Prison, before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani

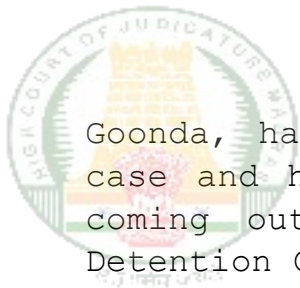
For Respondents : Mr.C.Mayilvahana Rajendran,
Additional Public Prosecutor

ORDER

[Order of the Court was made by **R.SUBBIAH, J**]

The petitioner is the mother of the detenu - Deepan @ Deepanraj, S/o.Jeyaraman, aged about 26 years. The detenu has been detained by the second respondent by his order P.D.O.No.10 of 2016, dated 29.07.2016, holding him to be a "Goonda", as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982.

2. Though the detention order is sought to be assailed on several grounds, the learned counsel for the petitioner mainly relies on the contention that the Detaining Authority, while arriving at the subjective satisfaction to detain the detenu as a



Goonda, has not mentioned about the bail order granted in similar case and he has also not dealt with the likelihood of the detenu coming out on bail in the ground case, which shows that the Detention Order was passed with total non-application of mind.

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3. We find some force in the above said submission made by the learned counsel for the petitioner, because, non-mentioning of the relevant details to detain the detenu as Goonda under the provisions of Tamil Nadu Act 14 of 1982, would vitiate the order of detention. Therefore, on that ground, we are inclined to set aside the order of detention.

4. In the result, this Habeas Corpus Petition is allowed and the impugned Detention Order, passed by the second respondent, in his proceedings in P.D.O.No.10 of 2016, dated 29.07.2016, is quashed. The detenu, namely, Deepan @ Deepanraj, S/o.Jeyaraman, aged about 26 years, is ordered to be set at liberty forthwith, if he is not required for detention in connection with any other case.

Sd/-

Assistant Registrar(AE)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary to Government,
State of Tamil Nadu Home, Prohibition and Excise Department,
Fort St. George, Chennai-600 009.
2. The District Magistrate and District Collector,
Office of the District Magistrate and District Collector,
Pudukkottai District, Pudukkottai.
3. The Superintendent of Prison,
Tiruchirappalli Central Prison, Tiruchirappalli District.
4. The Joint Secretary to Government,
Public (Law & Order),
Department Secretariat, Chennai-600 009.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Order made in
H.C.P. (MD) No.1004 of 2016
Dated: 30.01.2017

NB

MKV-PN/9.2.2017/2P-6C