



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.02.2017

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBBIAH
AND
THE HONOURABLE MRS.JUSTICE J.NISHA BANU**

H.C.P.(MD)No.1168 of 2016

Backiyam

: Petitioner

Vs.

1. The State of Tamil Nadu,
Rep by the Secretary to Government,
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,
Dindigul District, Dindigul.
3. The Superintendent,
Central Prison, Madurai.

: 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 in detention order passed in Detention Order No.23/2016, dated 18.08.2016, on the file of the second respondent herein and set aside the same as illegal and direct the respondents to produce the body or person of the petitioner's son, namely, Hari Prasad, S/o.Nagarajan, aged about 22 years, who is detained in Central Prison, Madurai, before this Court and set him at liberty forthwith.

For Petitioner : Mr.D.Balamurugapandi
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 - Hari Prasad, S/o.Nagarajan, aged about 22 years. The detenu has been detained by the second respondent by his order Detention Order No.23/2016, dated 18.08.2016, 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.

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 Detention Order No.23/2016, dated 18.08.2016, is quashed. The detenu, namely, Hari Prasad, S/o.Nagarajan, aged about 22 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 (CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary to Government,
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,
Dindigul District, Dindigul.
3. The Superintendent,
Central Prison, Madurai.
4. The Joint Secretary to Government,
Public (Law & Order)
Fort St. George, Chennai-600 009.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

NB

TE/MR : 27/02/2017 : 2P/6C

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Order made in
H.C.P. (MD) No.1168 of 2016
Dated:16.02.2017