



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.02.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

AND

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

HABEAS CORPUS PETITION(MD).No.1183 of 2016

Vairam

: Petitioner

Vs.

1. The State represented by
The District Collector and
District Magistrate, Pudukkottai,
Pudukkottai District.

2. The Secretary to Government
Home, Prohibition and
Excise Department, Secretariat,
Chennai - 9.

: Respondents

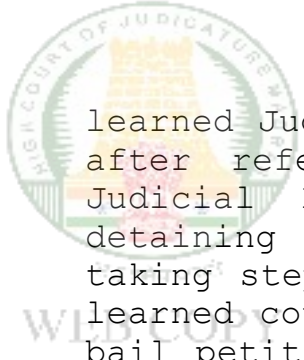
Petition is filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus to call for the records relating to the detention order passed by the 1st respondent in his proceedings in P.D.O.No.09 of 2016 dated 29.07.2016 by set aside the detention order and setting the detenu namely Prasath, aged about 23 years, S/o.Gurunathan at liberty now detained in the Central Prison, Trichy.

For Petitioner : Mr.S.T.Sasidhanaran Tamilkani
For Respondents : Mr.Mayil Vagana Rajendran
Additional Public Prosecutor

O R D E R

The petitioner is the mother of the detenu - Prasath, aged about 23 years. The detenu has been detained by the second respondent by his order in Detention Order P.D.O.No.09/2016 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 a number of grounds have been raised assailing the order of detention, at the time of making submission, the learned counsel for the petitioner submitted that the Detaining Authority, while arriving at the subjective satisfaction that there is no prima facie case against the detenu coming out on bail, in paragraph No.5 of the detention order has stated that the bail petition filed on 15.07.2016 by the detenu in the ground case is pending before the



learned Judicial Magistrate, Alangudi in C.M.P.No.2883 of 2016 and after referring the bail petition pending before the learned Judicial Magistrate, Alangudi, on the very next line, the detaining authority stated that the relatives of the accused are taking steps to release him on bail by filing bail petition. The learned counsel for the petitioner has also submitted that when a bail petition is pending before the competent authority, there is no need to file another bail petition. But the paragraph No.5 of the detention order, would go to show that the detaining authority without application of mind, mechanically passed the detention order. Therefore, it would vitiate the order of detention.

3.In view of the above, we are of the considered opinion that the detaining authority has passed the detention order without application of mind. Hence, we hold that the impugned detention order is vitiated and the same is liable to be set aside.

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.09/2016 dated 29.07.2016, is quashed. The detenu, namely Prasath, aged about 23 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(RTI)

/True Copy/

Sub Assistant Registrar

To

1. THE DISTRICT COLLECTOR AND DISTRICT MAGISTRATE,
PUDUKKOTTAI, PUDUKKOTTAI DISTRICT.
 2. THE SECRETARY TO GOVERNMENT
HOME, PROHIBITION AND EXCISE DEPARTMENT,
SECRETARIAT, CHENNAI - 9.
 - 3 THE JOINT SECRETARY TO GOVERNMENT
PUBLIC (LAW & ORDER), FORT ST.GEROME, CHENNAI-9
 - 4 THE SUPERINTENDENT, CENTRAL PRISON, TRICHY
 - 5 THE THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1 CC TO M/S.S.T.SASIDHARAN TAMILKANI, Advocate SR.No.6455

HCP (MD) .No.1183 of 2016

06.02.2017