



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.01.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

AND

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

H.C.P.(MD)No.868 of 2016

Bathurunisha

: Petitioner

Vs.

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.

2.The District Magistrate and District Collector,
O/o. The District Magistrate and District Collector,
Pudukkottai District, Pudukkottai.

3.The Superintendent of Prison,
Trichy Central Prison, Trichy Distrit.

: 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.06/2016 dated 30.06.2016 and quash the same and direct the respondent to produce the detenu by name Niyas Ahamed, S/o. Sahabudeen, aged about 34 years detained in Trichy 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 wife of the detenu - Niyas Ahamed, aged about 34 years. The detenu has been detained by the second respondent by his order in Detention Order P.D.O.No.06/2016 dated 30.06.2016, 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 likelihood of the detenu coming out on bail, in paragraph No.5 of the detention order has stated that the bail petition filed on 28.06.2016 by the detenu in the ground case is pending before the District Sessions Court, Pudukkottai in Cr.M.P.No.964 of 2016 and



after referring the bail petition pending before the District Sessions Court, Pudukkottai, 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.06/2016 dated 30.06.2016, is quashed. The detenu, namely Niyas Ahamed, aged about 34 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

/True Copy/

Sub Assistant Registrar

To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.
2. The District Magistrate and District Collector,
O/o. The District Magistrate and District Collector,
Pudukkottai District, Pudukkottai.
3. The Superintendent of Prison,
Trichy Central Prison,
Trichy District.
4. The Joint Secretary to Government,
Public (Law & Order), Fort St. George, Chennai-9
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Rj2

<https://hcservices.ecourts.gov.in/hcservices/>
is/cm/msa/07.02.2017/2p-6c

Order made in
H.C.P. (MD) No.868 of 2016
05.01.2017